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THE  
SPANISH CONSPIRACY.

*Kentucky*  
A REVIEW OF

EARLY SPANISH MOVEMENTS IN THE SOUTH-WEST.

CONTAINING

PROOFS OF THE INTRIGUES OF JAMES WILKINSON AND JOHN BROWN;  
OF THE COMPLICITY THEREWITH OF JUDGES SEBASTIAN, WALLACE,  
AND INNES; THE EARLY STRUGGLES OF KENTUCKY FOR AUTON-  
OMY; THE INTRIGUES OF SEBASTIAN IN 1795-7, AND THE  
LEGISLATIVE INVESTIGATION OF HIS CORRUPTION.

BY

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Author of "Historic Families of Kentucky."



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## PREFATORY.

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In his valuable work on the "Cession of Louisiana," published in the first years of this century, Allen B. Magruder stated: "To whatever incomprehensible spirit of delirium the circumstances may have attributed its origin, yet it is a fact, that about the year 1789, or 1790, a plan was in agitation to separate Kentucky from the Union and attach it to the Spanish government of Louisiana. A memorial was drawn up addressed to the executive authority of the colony expressing the advantage of a union, which was reciprocated in the same terms on the part of the Spanish governor. The chimerical plan proceeded so far in its effects upon the public mind, that a proposition to form the state into an independent government was introduced into a convention held about that time to form articles of separation from the State of Virginia." The author of the book in which this statement was made was at the time a resident of Lexington, Ky. He was a staunch Republican and an intimate political and personal associate of the men to whom the movement in question was attributed; and, writing soon after its occurrence, his opportunities for correctly ascertaining the facts from the men who were fully acquainted therewith were most ample.

A few years after this publication was made by Magruder, an exposure of the plan to which he had referred was made, in 1806, in the columns of the "*The Western World*," a newspaper published

at Frankfort, Ky. As an effect of that exposure, John Brown, one of the principals engaged in the plan, deemed it expedient at the early age of forty-eight to retire forever from public life, and, as far as possible, to withdraw himself from public observation ; while Sebastian, his friend and one of his coadjutors, was driven in merited disgrace from the bench of the Court of Appeals. The legislative investigation which was forced by that exposure, and the results of the judicial inquiries which he had himself invoked, left the unhappy Innes, another of John Brown's associates in the plan, nothing of which to boast and every thing to most bitterly lament. And, though a "Scotch verdict" of acquittal was given to James Wilkinson, the prime mover and leader in the plan, by the court-martial which was organized for the purpose, yet his own letters, since obtained from the Spanish archives, establish the indubitable truth of the charges made against him, and no one now questions his guilt.

At a later day, but during the lives of these men, not only were the charges as to their participation in this plan distinctly formulated, but the evidence to sustain them was stated in detail and passed into history. The historians who afterward wrote upon the subject accepted and reproduced that statement as a correct representation of the facts. Butler, who wrote in defense of these men in 1834, and who had had the fullest opportunity for obtaining every fact within their possession which in the slightest degree contradicted the allegations under which they had suffered ;—even Butler was obliged to confess, "that Mr. Brown, and in all probability many other of the ancient statesmen of Kentucky, did incline to discuss, if not adopt, a connexion with Spain, independent of the feeble and disgraced union, which then existed ;" and to protest that the suggestion, that the letters of Brown which communicated the overture that had been made to him by Gardoqui, had no "meaning"



other than to "forward information," was "unworthy of the grave subject of communication," and of the "dignity of the correspondents;" and was "inconsistent with the only manly and triumphant justification of which," the zealous champion of treason thought, "the measure may have been susceptible." The historians being thus substantially agreed upon the facts, differed only as to the degree of turpitude they involved. Had the question been permitted to remain one as to whether the sly plotting of treason was reprehensible or commendable, there had been no necessity of now recurring to the subject.

But, more than a century after the events had occurred, half a century after the last of those who participated in the controversy and the scenes to which it had related had been buried;—and after many years of patient labor expended in devising ways by which facts could be so suppressed, and misstatements of other facts could be so invented and systematized, as to make his ancestor's conduct appear to be not only blameless, but actually patriotic, the late Colonel John Mason Brown succeeded in accomplishing that result in a manner satisfactory to himself, in the preparation, reading, and placing in the hands of the printer of a paper entitled "*The Political Beginnings of Kentucky.*" This paper was not published until some months after its author's death. In its efforts to conceal John Brown's guilt, it flatly contradicts statements which were made on John Brown's own authority. Protest- ing that Butler, who endeavored to apologize for John Brown, had blindly accepted, and without an examination reproduced statements to his grievous injury, which had emanated in malice, the author of "*The Political Beginnings*" asserts, that the "so-called Spanish Conspiracy, gloomily imagined as concocted with Gardoqui, was but a figment of an incensed political adversary's brain; a suspicion unsupported by a particle of testimony, unvouched for by

document, unestablished by deposition, and refuted by every proof." The book claims to produce evidence discovered by its author, which furnishes, as it alleges, the complete vindication of John Brown;—a vindication, it may be remarked, which the prudent Brown never sought for himself, which no one else was ever able to offer for him, but which, if it were possible that he were really innocent, it must be admitted his memory for more than fifty years has most sorely needed. The author thus reopens the entire subject, boldly challenges the world to weigh the alleged evidence, to pronounce upon its sufficiency, and to criticise the integrity of its presentation.

The writer had taken great interest in that remarkable epoch in the history of his native state. His acquaintance with the facts was, however, but limited. He wished to ascertain how far the astonishing statements which are made in "The Political Beginnings," and which had arrested his attention, were sustained by the testimony cited; whether it were possible that all others had been in error, and that Colonel Brown alone had unearthed the facts. He therefore entered upon an investigation of the facts connected with that singular episode in our history;—upon the inquiry to which the whole world had been invited and summoned with such blare of trumpets. The results of that inquiry are now placed before the public.

In these pages are produced, in their logical connection and relation to each other, the proofs known to the writer, which show that, while Kentucky was yet a district of Virginia, an engagement was entered into by James Wilkinson with Miro, the Intendant of Louisiana, to separate Kentucky from the United States, and to subject her people to Spain; that, as a result of this intrigue between Wilkinson and Miro, a proposition was, a few months thereafter, made by Gardoqui, the Spanish Minister to the

United States, to John Brown, then a member of the Old Congress from Virginia, to grant to the people of Kentucky the privilege of navigating the Mississippi, which Spain refused to the people of the United States, on condition that the people of Kentucky would first erect themselves into an independent state and withdraw from the Union; that John Brown, assenting to the proposition made to him by the representative of the government of Torquemada, promised to aid the design; that, in accordance with the engagement made by the one and the assurance given by the other, Wilkinson and Brown, on their return to Kentucky, conspired with each other, and with Benjamin Sebastian, Harry Innes, Caleb Wallace, Isaac Dunn, and others, to accomplish the separation which had been concerted with the Spaniards, did all that they dared do to bring it about, and that their movements in the Danville Conventions of July and November, 1788, which were so happily frustrated, were agreed upon, and directed to that end. It will be shown that in this movement, its leader, Wilkinson, was not actuated by a desire to promote the growth of the West by obtaining for the people the freedom of the navigation of the Mississippi. On the contrary, it will be shown that the motives for his treason were at once wholly mercenary, selfish, and perfidious; that, while he bargained for the exclusive privilege of trade with New Orleans for himself and his associates, he urged upon the Spanish authorities that the rigid occlusion of the Mississippi as against all others, was the sole means by which the people of Kentucky could be tempted or driven to a separation from the United States, that they might thereby obtain, through an alliance with Spain, a right which that power denied to them while they remained a part of the United States.

Corroborative of the direct proofs adduced are the suppressions, evasions, and falsifications of the facts resorted to by these men in

their own defense, which they procured to be written, paid for, published, and circulated, and vouched for to the public to whose sympathies they appealed, and whom they attempted to deceive. In treating those tergiversations it is assumed that innocence does not need, and never resorts to, fraud and falsehood for its vindication; and that, if positive evidence were as wanting as in this case it is abundant, among the most indubitable manifestations of conscious guilt are the subterfuges, concealments, prevarications, and deliberate departures from truth behind which that guilt ever seeks a refuge. If these propositions be true, as their natural consequence it follows, as surely as the night succeeds the day, that the author who, in the advocacy of any cause or in the defense of any man, systematically conceals material facts, suppresses important testimony which conflicts with his own positions, and deliberately makes statements which the very evidence he cites disproves—not in one or two instances only, but from his initial to his concluding chapter,—thereby discloses his own sense of the wrongful nature of that cause, and makes manifest his own knowledge or conviction of the guilt of the man whose cause he had espoused.

Without further explanations, the writer now confidently submits the facts and the evidence to the calm and unbiased scrutiny, and to the just and inexorable judgment, of all men who take an interest in the early history of our common country, who value honor in our public servants, and who insist that due respect shall be paid to historic truth.

MAYSVILLE, KY., *March 2, 1891.*

# THE SPANISH CONSPIRACY.

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## CHAPTER I.

THE TREATY OF 1763—THE CESSION OF LOUISIANA TO SPAIN—THE EFFORTS OF SPAIN TO EXTEND HER BOUNDARIES TO THE ALLEGHANIES—THE CONNIVANCE OF FRANCE—THE DESIGN DEFEATED BY JAY—MR. JAY'S PROPOSITION.

The peace of 1763, which followed the triumph of British arms over the allied forces of French and Indians, secured to the Court of St. James the territorial sovereignty of all the country east of the Mississippi to which France had previously asserted the right of dominion. But prior to the signing of the definitive treaty with Great Britain, and contemporaneously with signing the preliminary articles of agreement with that power, on the 3d of November, 1762, France, apprehending that her territory of Louisiana might fall into the hands of Great Britain, had, by a secret treaty, made a free gift of all that splendid domain to Spain. The apparent generosity of this voluntary cession of the magnificent territory west of the Mississippi was somewhat diminished by the fact, that it had steadily proved a burden and expense rather than a benefit or source of revenue to the French king; and Spain was by no means greedy for the prize thus tendered as a proof of friendship and confidence and to conciliate her good will. However, the gift was finally accepted by his Catholic majesty, not for its own intrinsic value so much as with the expectation that Louisiana would interpose a barrier between the British dominions and his own more valued provinces of Texas and Mexico. Spain did not formally take possession of this fair and imperial domain until 1769, when, with great pomp and

parade, General O'Reilly made his entrance into the then sleepy village of New Orleans.

The definitive treaty of Paris, which restored peace between Great Britain and her colonies and France and Spain, was signed on the 10th of February, 1763. By its provisions France surrendered and ceded to Great Britain not only her claims to the country south of the lakes and east of the Mississippi, but also Canada, Nova Scotia, the island of Cape Breton, and all the other islands and coasts in the gulf and river of St. Lawrence. The seventh article of that treaty, out of which, and its alleged conflict with the previous secret gift of Louisiana to Spain, grew many of the difficulties which accompanied subsequent negotiations between the United States and Spain, was as follows, viz :

ARTICLE 7. "In order to establish peace on solid and durable foundations, and to remove forever all subjects of dispute with regard to the limits of the British and French territories on the continent of America, it is agreed that for the future, the confines between the dominions of his Britannic Majesty and those of his most Christian Majesty in that part of the world, shall be fixed irrevocably by a line drawn along the middle of the Mississippi river, from its source to the river Iberville, and from thence by a line drawn along the middle of this river, and the lakes Maurepas and Pontchartrain, to the sea; and for this purpose, the most Christian king cedes, in full right, and guarantees to his Britannic Majesty, the river and port of Mobile, and every thing which he possesses or ought to possess on the left side of the river Mississippi, with the exception of the town of New Orleans, and of the island in which it is situated, which shall remain to France; *it being well understood that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole length and breadth from its source to the sea; and expressly, that part which is between the said island of New Orleans, and the right bank of that river, as well as the passage both in and out of its mouth. It is further stipulated that the vessels belonging to the subjects of either nation shall not be stopped, visited, or subjected to the payment of any duty whatever.*"

As by the cession of all the territory owned by France on the east of the Mississippi, Great Britain had thus be-

come possessed of the left bank of that river from its source to its mouth, the express provision in regard to its navigation conveyed only a right which would necessarily have accompanied the territory ceded, according to all the laws of nations. It will be understood that the prior grant of Louisiana to Spain was as yet a secret and had not been accepted. The rights reserved to France were those which had been already given to Spain, which afterward took the place of France in the dominion over Louisiana.

Spanish authority over Louisiana had been scarcely assumed by O'Reilly, in 1769, when, owing to an increase of population by reason of the regiments which came with him, a dearth of provisions in New Orleans became so excessive that flour rose to \$20 per barrel. In the midst of the general distress a Philadelphian, named Oliver Pollock, arrived from Baltimore with a brig laden with flour, which he offered to O'Reilly on his own terms. Declining to accept this generous offer, the Spanish governor finally purchased the cargo at \$15 per barrel; and a promise was made to Pollock that he should have free trade to Louisiana so long as he lived, and that a report of his conduct should be made to the king.\* In 1776, this same Oliver Pollock was in New Orleans, with other merchants from Philadelphia, New York, and Boston, and by their exertions and enterprise was procured the abundant supply of ammunition, which was delivered to Colonel John Gibson, and was conveyed by him to Pittsburg for the use of the Americans. It was a part of this powder which George Rogers Clark obtained from Virginia in the fall of that year and shipped to Cabin Creek, for the use of the Ken-

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\* Martin's History of Louisiana, page 210. Concerning this gentleman, General Wilkinson wrote (in the second volume of his Memoirs, page 150): "It is notorious to every ancient inhabitant of Louisiana, that Mr. Pollock's connection with the Spanish officers, at New Orleans, was the most intimate, and his influence boundless from the administration of General O'Reilly to that of Governor Miro, from the year 1769 to 1790." While Wilkinson exaggerated this intimacy and influence, in order to magnify the importance of Pollock's testimony that he had no information of Wilkinson's pension from the Spaniards, yet it is certain the one was unusual and the other great.

tuckians. Spain, like France, being inimical to Great Britain, and desiring the separation of her colonies from her, Galvez, then the Spanish governor, connived at the sale of ammunition to Pollock and his associates, though his government was ostensibly at peace with King George.\* The next year several large boats came from Pittsburg to New Orleans, and returned laden with munitions, which Pollock had collected at the latter place.† An active correspondence was maintained between Galvez and Colonel George Morgan, who was in command at Fort Pitt, who meditated a descent to New Orleans, and who contemplated an attack from that point on Mobile and Pensacola; but this was discouraged by Galvez, who had his eye on the Floridas as a part of the future spoil of Spain, and had no purpose to permit them to be taken by the Americans. In 1778, Pollock openly assumed the character of agent for the United States at New Orleans; and, the court of Madrid having become less timid in its manifestations of hostility to Great Britain, Galvez gave assistance to the Americans, in arms, ammunition, provisions, etc., to the amount of \$70,000,—all of which, with large quantities bought by his own means, was sent by Pollock to the inhabitants of Western Pennsylvania, of Kentucky, of the Watauga, and to the posts captured from the British on the Mississippi. From New Orleans, and largely from Pollock, came the supplies which enabled Clark to capture Vincennes and Kaskaskia.‡ Thence was equipped the predatory foray of Captain Willing on the British settlers of Natchez. In a word, every important military movement in the west was aided from New Orleans, Oliver Pollock being, in nearly every case, one of the leading factors by whom the supplies were furnished. Thus was the attention of the scattered settlers west of the mountains early drawn to the vast importance to them of the system of mighty rivers which emptied their waters into

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\* Gayarre, *Spanish Domination*, page 100.

† Ibid. 109.

‡ Ibid. 112, 113.



the gulf; and while the traders at Pittsburg ascertained that their easiest and cheapest route for freights to and from Philadelphia was by way of New Orleans, the inhabitants of the entire west were made to feel that their natural outlet to the markets of the world was through the mouths of the Mississippi.

The Treaty of 1763 had constituted the Mississippi as the western boundary of North Carolina. But, by proclamation bearing date the 7th of October, 1763, King George had prohibited the granting of "warrants of survey," or the "passing of patents," or the settlement of "any lands beyond the heads or sources of any of the rivers which fall into the Atlantic ocean from the west or northwest;"—a measure deemed necessary for quieting the fears and jealousies of the red men, and which did much toward destroying the combinations of Pontiac. A compliance with this mandate would have prevented the extension of the frontier settlements west of the mountains of North Carolina; but, in defiance of the prohibition, a considerable number of the hardy and restless woodsmen and pioneers of that province, had early established themselves upon the banks of the Watauga, one of the tributaries of the Holston, where they were quickly joined by adventurous spirits from Virginia, Maryland and Pennsylvania. Their numbers had so rapidly increased that, in 1776, their claim to representation in the convention which framed the constitution for the "state" of North Carolina was admitted; and their aggressive disposition had so extended the area of their occupation that, in 1777, they were formed into a county of North Carolina, which had the Mississippi as its western boundary; thus early planting the flag upon and carrying the dominion and laws of the United States to the banks of that mighty stream.

The recognition by France of the independence of and conclusion of a treaty of alliance and commerce with the United States, was answered by an immediate declaration of war against France by Great Britain. To the treaty between France and the United States was annexed

a secret article, reserving to Spain the right of acceding thereto, and of participating in its stipulations whenever she might think proper. The offered mediation by Spain having been rejected by the Court of St. James, his Catholic majesty, uniting with his kinsman of France in the struggle, on the 8th of May, 1779, published his formal declaration of war against Great Britain. The Spanish expeditions against Fort Manchac, Baton Rouge and Natchez were accompanied by Oliver Pollock, as the agent of the American Congress. The Floridas having remained faithful to Great Britain, the Spanish arms were soon directed against Mobile and Pensacola, which fell into their hands. Witnessing with the most lively satisfaction the rupture between Spain and Great Britain, Congress deemed it advisable to invite his Catholic majesty to avail himself of the secret provision in their treaty with France, and for this purpose resolved to send a minister plenipotentiary to Madrid; and, on the 27th of September, 1779, selected John Jay, then the able Chief Justice of New York, for that most important mission. To this distinguished gentleman it had been frequently intimated by M. Gerard, the French minister at Philadelphia, prior to the embarkation in the war by Spain, that an indispensable prerequisite to a treaty with his Catholic majesty would be a quitting of the Floridas and of the Mississippi to him; but when Mr. Jay accepted the mission to Madrid, he had become fully "persuaded that we ought not to cede to her (Spain) any of our rights, and of course that we should retain and insist upon our right to the navigation of the Mississippi." \*

On the fourth day after his arrival in Cadiz, in the Spring of 1780, Mr. Jay sent his secretary to Madrid, with a letter to the Spanish minister for foreign affairs, acquainting him with the commission with which he was charged. The answer invited Mr. Jay to Madrid, but plainly intimated that he was not expected to assume a

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\* Life of John Jay, p. 101.

formal character, which must depend on future acknowledgment and treaty;—thus giving him to understand, at the very outset, that an acknowledgment of American independence by Spain would, on her part, be made a matter of bargain, and that she expected to be paid for admitting a fact, however indisputable;—and it was equally apparent to him that whatever designs were entertained by Spain were not only countenanced, but, in some instances, were even prompted by the French ambassador at Madrid. He was also soon given to understand that the claims of the United States to the navigation of the Mississippi prevented Spain from forming a treaty with them, and, besides, Spain had pretensions as to territory to which the patriotic American would not yield. In substance, the servants of the Catholic King said to the American minister, whom they refused to recognize: The price of our acknowledgment of your independence, and of our forming a treaty of alliance and commerce with you, is, a subscription on your part to the exclusive right of Spain to the navigation of the Mississippi; your consent to our taking possession of both the Floridas, and to all the country extending from the left bank of the Mississippi to the back settlements of the former British provinces, according to the proclamation of King George of 1763; and that you will prohibit your citizens from conquering or settling in any of the British territory to which we refer. The plans of Spain were not at all concealed, and as little pains were taken to disguise the connivance in them by France, whose minister at Philadelphia was instructed to and did communicate them to Congress, in terms that sound more like an order than mere advice that they be accepted. Mr. Jay declining to accede to those conditions, Spain refused to render the financial aid to the United States which had been solicited. During the year 1780, he labored in vain to induce the Spanish Court to enter into negotiations for a treaty. At first, Congress was also firm. But, wearied with the struggle, in February, 1781, the Virginia delegates in Congress introduced a resolution, which was voted for by all the

southern states, with the exception of North Carolina, and which passed Congress, instructing him no longer to insist upon the navigation of the Mississippi below our southern boundary, if it should be found necessary to make that concession to obtain a recognition of our independence, and if, by making it, that recognition could be obtained. In the meantime, however, in the spring of 1780,—under the instructions of Gov. Jefferson,—a fort named in his honor had been established by George R. Clark, below the mouth of the Ohio, upon the Mississippi. And, on the 2nd of January, 1781, Don Eugenio Pierre, at the head of sixty-five Spaniards, set out from St. Louis to capture the little mission of St. Joseph on Lake Michigan, where he found a few British traders. That the place was at once abandoned by the Spaniards, who retraced their steps to St. Louis, and that afterwards Spain founded on this capture a claim for territorial dominion in the north-west, are evidences that this expedition was without military purpose, and that the enterprise was purely a legal one against the rights of the United States.

Although privately advised of the new instructions adopted by Congress, the first official notification of the act, which was intensely mortifying to him, was received by Mr. Jay when, on the 11th of July, 1781, the Spanish secretary of state placed in his hands a letter from the president of Congress, announcing the altered resolution of that body. Under those instructions Mr. Jay, again urging the negotiation, presented the Spanish minister with the plan of a treaty. In this he had most reluctantly incorporated an article relinquishing the right of the United States to the navigation of the Mississippi; but, with the courage for which he was remarkable, he made this conditional upon the immediate ratification of the treaty by Spain, and assumed the responsibility of accompanying it by the declaration, that should the treaty not be concluded before a general peace, the United States were not to be bound by the offer to surrender the navigation. But, not content with this humiliating concession, Spain refused to enter upon a treaty on any basis other

than one which, in addition to abandoning this right of navigation, and yielding to the Catholic king the possession of both the Floridas, should also concede to his grasping demands all the territory extending from the left bank of the Mississippi to the back settlements of the former British provinces, according to the proclamation of 1763; and happily, as it turned out, no treaty could be effected by Mr. Jay, nor would the Spaniard even enter upon a negotiation. Thus, while the revolution was yet progressing, did Spain make it apparent that her participation in the hostilities against Great Britain was solely in order to weaken and humiliate that rival power, for her own aggrandizement, and not from any sympathy with the cause of American liberty, which was inimical to her own institutions; and thus early did she manifest her purpose to separate the west from the east.

France, which was bound to Spain by compact as well as by the close relationship and similar faiths of their rulers, united with that power in all her efforts to bring the independence of the United States under their *protection*; and to limit our boundaries to the Alleghanies, or at the most by the Ohio river. The separation of the American colonies from Great Britain tending to further the objects of France, she labored earnestly and zealously to accomplish that result, and was restricted by her own inclinations and interests not less than by compact from agreeing to any terms of peace until the independence of the United States was secured. But, as the United States might possibly prefer claims beyond their independence, which Great Britain might be unwilling to concede, it became important to France to have the power of controlling the negotiation of the American claims;—so as to avoid, on the one hand, a breach of her obligations to the United States, and, on the other hand, a prolongation of the war for objects in which she had no interest. And, beyond all this, France desired to render the ally in whose behalf she had gone into the war, subservient to her interests in the future; and she shrewdly calculated that the United States would

be more easily reduced to the position of a dependent satellite of the house of Bourbon, and would be more readily controlled by its influence, if the establishment of their independence should be attended by the contraction of their boundaries, by exclusion from the Gulf of Mexico, and from all participation in the fisheries, and by causes for permanent irritation with Great Britain, than if erected into a powerful empire and reconciled with the mother country by a treaty liberal and equitable in its provisions. As early as 1779, M. Gerard, the French Minister to the United States, hinted that the United States might find themselves in the position of the Swiss Cantons, which had failed to secure a recognition of their independence from their former sovereigns, but nevertheless enjoyed "their sovereignty and independence under the guarantee of France." In the same memorial to Congress, M. Gerard adverted to "the manifest necessity of enabling Spain, by the determination of *just and moderate terms*, to press upon England with her good offices, and to bring her mediation to an issue," which was a hint to Congress to recede from its *ultimata* as to the navigation of the Mississippi and a participation in the fisheries. Congress then remaining firm, and giving to Mr. Jay a qualified reference to the advice of their allies upon points not included in his instructions, the position of the United States was found not at all to comport with the views of France. Gerard was succeeded as minister to the United States by Count Luzerne, who, on the 25th of January, 1780, requested a conference with Congress. The committee appointed by Congress to receive his communications, reported that the French minister had been instructed by his government to inform Congress of certain points which were deemed of great importance by Spain, which had then taken part in the conflict, and upon which it was necessary that Congress should explicitly explain themselves. These points were identical with those which had already been communicated to Mr. Jay at Madrid by the Spanish secretary of state, as obstacles to negotiation by his government with the United

States. They amounted to a demand for an agreement that the territory of the United States should extend no further west than the settlements permitted by the proclamation of 1763; that the United States thus having no territory upon the Mississippi, had no right to navigate that stream; that Spain intended to conquer both the Floridas, and her possession of them must be acquiesced in; that the territory on the *east* of the Mississippi belonged to Great Britain, and would probably be conquered by Spain, and the French minister advised Congress to restrain their people from conquests or settlements within the territory upon which Spain had turned her covetous eyes. Luzerne also communicated the information, which partook of the nature of a threat, that France did not regard the independence of the United States as free from danger until they were united in amity with Spain;—of course, by acceding to these iniquitous demands. It was this disingenuous interference by France in behalf of Spain which induced Congress to instruct Mr. Jay to abandon the right to navigate the Mississippi, as has been stated. Having succeeded thus far, on the 26th of May, 1781,\* Luzerne informed Congress that Russia and Germany had offered their mediation for a peace, and requested Congress to appoint a committee to confer with him in reference to the manner of conducting the negotiation, the extent of the powers to be granted to the American plenipotentiary, the use to be made of those powers, and as to the *confidence* that ought to be reposed in the ministers of the French king. Assuredly France was disposed to push her advantage to the greatest length, but this insolent demand was acceded to. The count disapproved of the late nomination of a minister to Russia by Congress; complained that Mr. Adams, who was then in Europe with a commission for negotiating a treaty of peace, had assumed the right under it of treating with England, and requested Congress to instruct Mr. Adams “*to receive his directions from the Count de Vergennes (the French secretary of state) or from*

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\* Secret Journal of Congress.



*the person who might be charged with the negotiation in the name of the king.*" Congress had been to such an extent won over by Luzerne as to agree upon new instructions to Mr. Adams, in which he was directed to insist upon no other ultimata in the treaty of peace than that of independence; and was instructed "to make the most candid and confidential communications upon all subjects to the ministers of our generous ally, the King of France, *to undertake nothing in the negotiations for peace or truce without their knowledge or concurrence.*" It was doubtless at the suggestion of Luzerne that the committee recommended that some person should be associated in the negotiation with Adams, whose sturdy independence was well calculated to inspire apprehensions in those who masked their designs by insincere professions. The sacrifice of national dignity did not satisfy Luzerne, and Congress then inserted in the instructions the following words, viz: "*and ultimately to govern yourself by their (the ministers of the French king) advice and opinion.*" Mr. Jay, Dr. Franklin, Mr. Jefferson and Laurens were then associated with Adams as ministers plenipotentiary to negotiate a peace.

When Mr. Jay received at Madrid, in the fall of 1781, his commission as the associate of Mr. Adams, accompanied by these humiliating instructions to act as a mere puppet to be played with by the minister of a despotic king, and which, as well as the very appointment of Mr. Jay, were virtually dictated by Luzerne, his mortification and chagrin elicited from him a letter in which the degradation of the position assigned him was strongly depicted. Unacknowledged as the minister of his country, and unable to negotiate with Spain except upon terms which insatiable greed strove to extort from the necessities of the republic, his continued stay in Madrid held out to him no hope of usefulness; and it must have been with lively satisfaction that, in May, 1782, he received a letter from Dr. Franklin summoning him to Paris, to assist in negotiations for peace, which the latter expressed the opinion would soon be opened;—a summons he obeyed with his accustomed alacrity.



Having become master of the situation by the instructions Congress had been prevailed on to give their commissioners, France soon gave ominous hints of the sacrifices which the United States were expected to make. Taking no measures to facilitate the efforts of Mr. Jay to form a treaty with Spain, and expressing open disapprobation of the efforts made by others to form alliances with other European powers, the design of the French court was plainly to render the United States solely dependent on her, and then to sacrifice our interests in order to keep us in that dependent condition. The recognition of our independence by Holland was obtained by Mr. Adams against the advice and wishes of the French ambassador at the Hague. On the 23d of November, 1781, Count Luzerne addressed a communication to Congress, vaguely intimating his apprehensions that he might not be able to "*obtain for every state all they wished,*" which was a diplomatic way of announcing the purpose of his court to strip the south and west of the navigation of the Mississippi, and New England of a participation in the fisheries. On the 28th of January, 1782, he communicated to Congress a letter from Vergennes, indicating that the United States were expected to accept terms which the French court might regard as "*reasonable,*" and the indisposition of France "*to continue hostilities mainly on account of America*" in case terms deemed reasonable by France might not prove acceptable to the United States.\* On the 24th of September, 1782, other letters from Vergennes were laid before Congress, in one of which the wily diplomat gave that body to understand the importance of "*confining themselves within such bounds of moderation, as to give no umbrage to any one of the powers at war with Great Britain;*" the liberal translation of which was, that by surrendering to Spain the territory west of the Alleghanies, and the navigation of the Mississippi, Congress should avoid giving umbrage to his Catholic majesty.

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\* Secret Journal of Congress.

The discovery of their mistake in giving such instructions to their commissioners was not made by Congress until they were thus compelled to sue to a perfidious foreign prince for their rights. The flatteries of Vergennes had in the meantime so won over Dr. Franklin, that he was ready to make the concessions demanded. And this was the situation when Mr. Jay, who had fathomed the designs of France and Spain, arrived in Paris, in June, 1782. The negotiation for peace had not yet assumed any definite form. Mr. Jay on leaving Spain had been informed that Count Aranda would renew the negotiation with him in Paris, and to him the American commissioner, therefore, addressed a letter expressing his readiness for the necessary conferences.

In the first of these conferences, in the presence of Vergennes, Count Aranda commenced with the subject of the western boundary of the United States, proposing to run a line *east* of the Mississippi, which should be the western boundary of the United States. While promptly claiming that river as the true boundary, Mr. Jay, with becoming dignity, refrained from discussing the point with Aranda, who had not given him a copy of his power to treat with the American commissioners. The count gave him a map with the proposed line drawn upon it, which was shown to Vergennes, whose confidential secretary insisted that Jay's assertion of the right of the United States was not well founded. This secretary, acting at the instance of his master, afterwards addressed to Mr. Jay a letter in which he proposed as a *conciliatory line*, as the boundary of the United States, which would have deprived them not only of all the land north of the Ohio, but also of parts of Kentucky and Tennessee, and of nearly the whole of Alabama and Mississippi, which the secretary insisted belonged to Great Britain and the possession of which must be determined by the treaty to be made. This letter, which was a contrivance of Vergennes to fix a boundary agreeable to Spain, without incurring the responsibility and odium of direct interference, Mr. Jay never answered. The object of Spain was to exclude the citizens of the

United States from the Mississippi, and hence she desired the boundary to be fixed by a line east of that river, and this purpose was fully countenanced by France. Jay had given to Aranda a copy of his commission; he declined to enter into any discussion with the Spaniard until the latter had complied with the same ceremonial; if Jay refused to treat there could be no cession of the Mississippi or of the proposed western boundary; if Aranda tendered Jay his commission as ambassador, this would itself have been a recognition of the independence of the United States, which would have rendered them less dependent on France; Jay's conduct thus interfered with the plans of Vergennes. So the convenient confidential secretary wrote a note to Jay urging him to commence negotiations with Aranda, because a refusal to do so would be offensive to the Spaniard; which note was also left unanswered. Vergennes' next movement was, in the presence of Aranda, to say to Jay, that he had been already informed by the count of his authority to treat, and surely Jay would credit him. But Jay was as immovable as he was brave, and refused to treat with any power which did not first acknowledge the independence of his country; and to every representation by Vergennes that this acknowledgment by Spain might be embraced in the treaty to be made, he proudly responded that the independence was the effect of their contest with the Crown, and that its acknowledgment must precede negotiation with any power; and thus, France and Spain continuing to act in concert for the double purpose of dividing our country and bringing our independence under the condescending protection of the French, all attempts at negotiation were for the time suspended.

On the 25th of July, 1782, George III issued an order for a commission to Richard Oswald empowering him to treat with any "commissioner or commissioners named, or to be named by the thirteen *colonies* or plantations in North America," and by him a copy of this order was communicated to the American commissioners at Paris, and by them it was submitted to Vergennes; who advised

them to treat with Oswald, who was then in Paris, as soon as the commission should arrive. Dr. Franklin thought the commission to Oswald would do; but all the persuasions and flatteries of the French court were unavailing to induce the resolute Jay to descend from the ground of *independence* to treat under the description of *colonies*. And now, Mr. Jay determined, that rather than enter upon any negotiation derogatory to the dignity of his country or injurious to the interests of his countrymen, he would assume the responsibility of violating the express commands of Congress, (that the American commissioners should act under the advice of Vergennes,) and of refusing to act with his colleague. He at once conferred with Mr. Oswald, in order to render the latter instrumental in effecting an alteration in the terms of his commission; and of such weight were his representations to the representative of the British king, that it was at Oswald's own request that Mr. Jay prepared and gave to him a draught of such a commission as would be satisfactory, with which a carrier was at once dispatched to London. In the meantime Mr. Jay again declined to comply with the advice of Vergennes, who was ignorant of the result of the conference with Oswald, and who again urged the commencement of negotiations under the original commission. The answer to Oswald's dispatch, which was not sent until the court at London had received another from Mr. Fitzherbert, the British minister at Paris,—written immediately after the latter had held a private conference with Vergennes,—announced the purpose of King George to *grant* to America unconditional independence *as an article of treaty*. Jay elicited from Oswald that this answer was suggested by Fitzherbert and that the British cabinet had been apprised of the opinion of Vergennes. It was obvious to Jay that France wished to postpone the acknowledgment of American independence; because, when that was done, the war would be abandoned by Great Britain; the states, having no longer any thing to apprehend from their adversary, would cease to look to France for protection and counsel, and would

refuse to yield by treaty any of their rights, which France might barter away with England for concessions to herself and her ally—Spain. Thus relieved by the interference of Vergennes of all sentiments of delicacy towards France which otherwise he might have felt, Mr. Jay no longer scrupled to explain to Mr. Oswald the views and policy of the French court; showed him that it was the interest of his government to render the United States as independent of France as they already were of Great Britain; and drafted a joint letter from Dr. Franklin and himself declaring their unalterable determination not to treat with any other footing than that of independence;—a letter which Dr. Franklin refused to sign, and which, therefore, was left unsigned by Jay, but the draught of which was given to Oswald, who sent it to his court. On the 6th of September, Mr. Jay received from Vergennes' secretary the letter already mentioned in regard to boundaries;—from which he discerned that it was the intention of France to oppose at the peace the extension of the United States and their claim to the navigation of the Mississippi; *probably to support* the British-Spanish claims to the country above the 31st degree of latitude, and *certainly* to all the country north of the Ohio; and, in case the United States would not agree to divide with Spain in the manner proposed, to aid Spain in negotiating with Britain for the territory she wanted, and would agree that Britain should have the residue. On the 9th Jay learned, that on the morning after writing this letter the secretary had a conference with Aranda and Vergennes, and had then immediately set out for London. His suspicions that the object of this visit was to arrange terms with Britain which would deprive the United States of their natural rights to take fish in the North American seas, that it might be divided with France to the exclusion of others; to exclude them from the navigation of the Mississippi, and to divide the western country between Great Britain and Spain;—these suspicions were confirmed by a copy of a letter he received addressed by Marbois, the French charge de affairs at Philadelphia, to Vergennes. Concealing his action from

Dr. Franklin, as well as from the French government, Mr. Jay immediately sent Mr. Vaughan, an English gentleman who was well disposed to America and who resided in Paris, as a secret agent to the British secretary of state, instructed to report the determination which had already been announced, that American independence must be acknowledged preliminary to a treaty; that the United States would never make a peace which would take from them their rights in the fisheries; and that the attempt to exclude them from the navigation of the Mississippi would sow the seeds of certain future war. The mission of Mr. Vaughan was attended with such complete success, that on the 27th of September he returned to Paris, accompanied by a courier who delivered to Oswald a commission authorizing him to treat with the *commissioners of the United States of America*;—and thus was our *independence acknowledged*. The negotiation, which was then immediately entered upon between Mr. Oswald and the two American commissioners, resulted, in a few days, in an agreement upon certain preliminary articles, to be incorporated in the treaty so soon as England and France should be ready to cease hostilities;—their alliance with France restraining the United States from making a separate peace. These articles were drawn by Mr. Jay, and, in most respects like those of the subsequent definitive treaty, secured the Mississippi and the fisheries, while the boundaries were even more extensive than those finally obtained. The British ministry hesitated to agree because of the extent of the boundaries, which included nearly the whole of Upper Canada, and because, also, the articles contained no provision for the Tories. In a contemporary conversation with the secretary of Vergennes, he contested our right to those back lands upon which Spain had set her eyes, and reiterated his views in regard to the fisheries.

On the 26th of October, John Adams arrived in Paris, and in him Jay “found a very able and agreeable coadjutor,” who “concurred with him on all the points” which had been raised. Franklin was ultimately brought around to their views, and assented to “go on with them without

consulting this (the French) court," as instructed by Congress. On the 30th of November, the provisional articles, which amounted only to a contract between Great Britain and the United States, as to the terms of the treaty when that treaty should be made, were signed by the American commissioners and Mr. Oswald; and not until the event was it announced to Vergennes. On the 3d of September of the following year, 1783, Mr. Jay signed the definitive treaty of peace, which gave to Spain the West and East Floridas; and by which Great Britain formally acknowledged the independence of the United States, and recognized as their southern boundary a line drawn due east from a point in the Mississippi, in the latitude of 31 degrees north, which was to be the dividing line between us and Spain.\* It was thus that the selfish projects of France and Spain were discovered and frustrated by the sagacity, patriotism, firmness and courage of John Jay and John Adams; and it was to these two, staunchest of the lovers of republican liberty, that it was due that our independence was not taken under the protection of the French monarchy, and that Kentucky did not become a French or a Spanish province.

The health of Mr. Jay prevented an acceptance of the invitation of the Spanish court, that he would renew his negotiations with that power at Madrid. In the summer of 1784 he returned to the United States, and in December of that year accepted the position of secretary of foreign affairs. Spain had steadily refused to recognize him as the American minister to her court; but, in the spring of 1785, Don Diego Gardoqui arrived in Philadelphia bearing a commission from his Catholic majesty to Congress. Though this was not of a high grade, he was courteously presented by Mr. Jay, and was as courteously received by Congress. Spain had made no treaty with the United States, and Jay's anticipation that the navigation of the Mississippi would continue to form an insuper-

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\*These particulars have been gathered from the *Life of John Jay*, by William Jay.

able obstacle to a treaty were fully realized. Besides this question, the conflicting claims of the United States and Spain were not easy to be reconciled. The treaty with Great Britain made the navigation of the Mississippi from its source to its mouth free alike to American and Spaniard, and fixed our southern boundary at a line to be drawn east from the Mississippi along the thirty-first degree of latitude. But the treaty also warranted West Florida to Spain, and the northern boundary of that province had been extended to a line drawn due east from the mouth of the Yazoo river, in latitude  $32^{\circ} 28'$ ; and all the intervening territory the Spaniards had in actual military possession, and claimed to hold it also under the warranty of Great Britain; and, as the owner of both banks of the Mississippi, insisted upon her exclusive right to its navigation within her own territory. The United States, on the other hand, claimed the right not only to navigate the river as far as their own territory on its east bank extended, as fixed at the thirty-first degree, but to its mouth as well;—on the ground that by the treaty with France of 1763, under which Spain claimed her right to the river and its navigation, Great Britain had from the same power derived a concurrent right of navigation from its source to the Gulf, and that the United States had succeeded to all the rights which had belonged to Great Britain under that treaty.

As Gardoqui declared that his king would never permit any nation to use the river, the United States was reduced to the alternative of permitting their claims to lie dormant for the present, or of supporting them by arms, which they were in no condition to do. Congress had instructed Mr. Jay, as secretary of foreign affairs, “that he enter into no treaty, compact, or convention whatever, with the said representative of Spain, which does not stipulate the right of the United States to the navigation of the Mississippi and the boundaries as established by the treaty with Great Britain.” All negotiation was, therefore, suspended by these conflicting claims, and more than a year had passed without the slightest progress being made. On the 3d of



September, 1786, in answer to the summons of Congress, Mr. Jay went before that body and announced his unalterable adherence to the justice and importance of the claims of the United States, of which, as has been already seen, he had been the foremost and most influential advocate. He had, however, no anticipation of the rapidity of the future growth of the West. He proceeded to state that a "proper commercial treaty with Spain would be of more importance to the United States than any they have formed, or can form, with any other nation." He drew attention to the family compact between France and Spain, which, "in case of a rupture between us and Spain," would almost certainly add France to our foes. The obstacles to the desired treaty were the questions of boundary and the navigation of the Mississippi, and he had found Gardoqui immovable on the latter topic. Unless it could be in some manner settled, no treaty could be concluded. Spain already excluded us from the navigation, and held it with a strong hand against us, and it could only be acquired by *war*. We were not prepared for a war with Spain or any other power, and a large portion of the confederation would undoubtedly refuse to go to war with Spain for the object in question. Though the navigation would ultimately be of immense importance, he did not think it would be for twenty-five or thirty years, and it would be that long before we would be in a condition to enforce our rights. He, therefore, deemed it expedient to enter into a treaty with Spain limited to that time, and during which we "*would forbear to use the navigation of that river below our own territories to the ocean;*"—not cede or barter away our rights. He did not know that this would be acceptable to Spain, but he thought the experiment worth trying. But if this could not be effected, the "Mississippi would continue shut—France would tell us our claim to it was ill-founded. The Spanish posts on its banks, and even those out of Florida in our country would be strengthened, and that nation would then bid us defiance, with impunity, at least until the American nation shall become more really and truly a

nation than it at present is. For, unblessed with an efficient government, destitute of funds, and without public credit, either at home or abroad, we should be obliged to wait in patience for better days, or plunge into an unpopular or dangerous war with very little prospect of terminating it by a peace either advantageous or glorious. Supposing the Spanish business out of the question, yet the situation of the United States appears to me to be seriously delicate, and to call for great circumspection both at home and abroad; nor, in my opinion, will this cease to be the case until a vigorous national government be formed, and public credit and confidence be established." \*

The delegates in Congress from the seven Northern States, voting by states and constituting a majority of *one*, decided to rescind Mr. Jay's instructions and to leave him free, if found necessary in order to conclude a treaty, to agree to *forbear the use* of the Mississippi below our own boundary, for twenty years; the six Southern States, voted against rescinding; and the General Assembly of Virginia, by resolutions passed by the House in November and by the Senate on the 7th of December, 1786, instructed her delegates *never* to accede to such a proposition, in which she was heartily supported by the other non-concurring states. It required the vote of *nine* states to give validity to any treaty which might be agreed upon by the representatives of the two governments, and the action of the six Southern States, in case they continued to adhere to their position, made it certain that a treaty containing such a provision would be rejected by Congress. But Mr. Jay, regarding the action of the seven states as abrogating the restriction upon *him*, in the spring of 1787 renewed with Gardoqui the negotiation (which had slumbered from the previous fall until then,) by proposing the stipulation which he had suggested to Congress, but modified in regard to time to twenty years, and which implied the acknowledgment by Spain of our *right*

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\* Secret Journals of Congress, IV, 45.

to a navigation which we were to have *forborne* for a definite period. But the Spanish minister refusing assent to an article which thus conceded by necessary implication our *right* to navigate that stream, rejected with equal hauteur a subsequent proposition of Mr. Jay which left the whole question of *right* in abeyance, and would consent to no treaty which did not in express terms formally abandon all claim of right by the United States to navigate that river below their own territory. The non-concurring delegates to Congress vigorously assailed the assumption that seven states could authorize the minister to propose an article to a treaty which had been formally condemned by six states, when it required the assent of nine states to give validity to the treaty itself; and when Mr. Madison left Congress on the 26th of April, 1787, to attend the convention to frame a new government, the project was considered to be at an end.\*

Washington, who had for years zealously advocated the construction of a canal between the headwaters of the James and the Kanawha rivers, as a means of connecting the west with the east, had, in June, 1786, written to Col. Henry Lee, then a delegate in Congress, his opinion that it would be better "neither to relinquish nor to push our claim to this navigation," but in the meantime "to open *all* the communications which nature has afforded between the Atlantic States and the western territory;" that "whenever the new states become so populous and so extended to the westward, as to really need it, there will be no power which can deprive them of the use of the Mississippi," and that in the meantime it would be best not to urge the subject; and closed with this remark, which exhibits at once his sagacity and his apprehensions: "It may require some management to quiet the *restless and impetuous* spirits of Kentucky, of whose conduct I am more apprehensive in this business than I am of all the opposition that will be given by the Spaniards." The reply of Lee, who subsequently conformed to the instructions given by

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\*Madison Papers, Vol. II, page 614.

the General Assembly of his state, shows that his individual opinions were in advance of those of Washington and agreed with Jay, that exclusion from the Mississippi was at the time unimportant to the west, while the commercial advantages offered by Spain were of great value to the east, and that he was inclined to the course suggested by Mr. Jay a few weeks later.\* The response of Washington, July 26th, 1786, states his previous ignorance of the difficulties in the way of a negotiation with Spain, and reasserts his opinion that address would be necessary in temporizing with Kentucky, the population of which was rapidly increasing. "There are many ambitious and turbulent spirits," he said, "among its inhabitants, who, from the present difficulties in their intercourse with the Atlantic States, have turned their eyes to New Orleans, and may become riotous and ungovernable, if the hope of traffic with it is cut off by treaty.†"

In another letter to Col. Lee, dated October 31st, 1786, Gen. Washington wrote: "With respect to the navigation of the Mississippi, you already know my sentiments. They have been uniformly the same, and, as I have observed to you in a former letter, are controverted by only one consideration of weight, and that is, the operation the occlusion of it may have on the minds of the western settlers, who will not consider the subject in a relative point of view, or on a comprehensive scale, and may be influenced by the demagogues of the country to acts of extravagance and desperation, under the popular declamation that their interests are sacrificed."

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\* See Sparks' Life of Washington, Vol. IX, page 173.

† Ibid., page 180.

## CHAPTER II.

THE SETTLEMENT OF THE WEST—KENTUCKY—INDIAN HOSTILITIES—  
GEO. R. CLARK.

Before the commencement of the French and Indian War, companies had been formed and had obtained grants of land with a view to the settlement of the country on the Monongahela and Upper Ohio. The prospecting tour of Dr. Thomas Walker, Captain Charles Campbell, the gallant Colonel James Patton, and their associates into Kentucky, as early as 1750, was not a mere idle voyage of adventure, but was made with a definite purpose of future colonization.\* These various projects were interrupted by the breaking out of hostilities, but the struggle for supremacy between France and Britain had scarcely been terminated by the treaty of 1763, when the thoughts of the enterprising were once more seriously turned towards the West. The preparations for the contemplated movement were for only a brief time delayed by the wide spread conspiracy of Pontiac, which made the border streams of Pennsylvania and Virginia run with the blood of the frontier settlers. The confederation organized by the sagacious and warlike chief speedily dissolved upon his failure to capture the strongholds at Detroit, Niagara and Fort Pitt; and the apprehensions and jealousies of the red men were in a measure and for a time allayed by the proclamation of 1763, to which reference has been made. The pacificatory effect of the assurances given in this proclamation was increased by the expedition of General Bradstreet upon the Erie, and of the gallant

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\* The journal of Dr. Thomas Walker mentions the loss of his tomahawk during a tremendous rain-storm. It was found long afterwards by one of the McAfee's on the banks of Dick's river; this circumstance proves that he had penetrated as far as that stream.

Swiss, Colonel Henry Bouquet, who penetrated to the Forks of the Muskingum, and on the 9th of November, 1764, concluded a peace with the Shawanese and Delawares, securing from them two hundred and six of their unfortunate captives, who were restored to their friends and homes. Bradstreet had already, about the 21st of August, concluded a treaty at Detroit with the head men of more than twenty tribes. The successes of Bradstreet and Bouquet paved the way for the yet more general treaty of peace made with the various tribes by Sir William Johnson, in April, 1765, at the German Flats; where the Indians proposed as a boundary beyond which the whites should not go the Ohio or Alleghany and Susquehanna, to which Johnson had no authority to accede; and where the red men agreed to give the traders whom they had despoiled in the uprising of 1763, a large tract of land in compensation.

In spite of the royal proclamation of 1763, the aggressive pioneers pushed their settlements not only to the Watauga, in the Cherokee country, but upon the Redstone, the Monongahela, and the Cheat rivers, in regions claimed by the Northern Indians, and for which they had not yet received compensation;—so that a general border war was once more feared. In the meantime, the Ohio Company, the soldiers claiming under Dinwiddie's proclamation, and individuals claiming under grants made by Virginia, were all clamoring for a perfection of their grants or a completion of their claims, while the Indians were raging at the constant encroachments upon them. The orders of General Gage, the Commander-in-Chief of his Majesty's forces, and of Sir William Johnson, the Indian Agent, for their removal were defied by the settlers, who remained upon and stoutly held their clearings. Every circumstance demanded that the boundary line suggested by the Indians at the conference in 1765, at the German Flats, should be fixed, and that their title to the lands ceded by that boundary should be extinguished. In the spring of 1768, Sir William Johnson received orders relative to a new treaty with the Indians for that purpose,

and at once took measures to secure a full attendance of their representatives. The Congress, which was attended by deputies from all the Six Nations and the Shawanese and Delawares, met at Fort Stanwix, in October, 1768, and sat for nearly seven weeks. The boundary agreed upon began on the Ohio at the mouth of what is now called the Tennessee river; thence it ran up the Ohio and Alleghany to Kittaning, and thence across to the Susquehanna;—thus transferring to the British all of the country south of the Alleghany and Ohio to which the Six Nations had any claim. The tract between the Monongahela and the Kanawha was conveyed to the traders who had been despoiled in 1763, who named it Indiana. The remainder, from the Kanawha down, was deeded to King George, for which the consideration in money and goods, aggregating more than £10,000, was paid down. It was agreed that no claim should ever be based upon the previous treaties at Lancaster and Logstown.

Upon this treaty, which was not extorted from the Indians under a pressure of disaster to them, nor by hard persuasion backed by force, but was made voluntarily and at once, rested the title of the crown to Western Pennsylvania, Western Virginia and Kentucky. The lands ceded were not occupied by any of the Six Nations, nor were they hunted over by the tribes of that confederacy, whose habitations and hunting lands were far distant. The cession was made by chiefs of tribes who were in no way directly or practically interested in the lands ceded, under the manipulations of Sir William Johnson, who had in contemplation the founding of a new and independent colony in the territory designated; while the Ohio and Western Indians, who were immediately and greatly interested, had no voice in the treaty. It is true the treaty itself states that the Delawares and Shawanese were present and acquiescing, but it is certain it was not signed by their chiefs, and that neither those nor any of the other tribes of the West recognized the validity of the grant which gave away their beautiful hunting lands. It is scarcely valuable to inquire into the right of the Six Na-

tions over this territory by reason of their alleged conquests of the Shawanese, Delawares, Miamis, and other tribes, nearly a century before; the former exerted no practical dominion over the latter, who did not by any means assent to the "*dependency*" on their own part to the Six Nations, which was asserted in the treaty by which they steadily refused to be bound. After all, the title was essentially and practically worthless, and the results to the settlers who planted themselves upon the lands, and to the tribes from whom they were wrested, would not have been different had the treaty never been made. But the Cherokees also claimed Kentucky, and the histories contain vague allusions to a purchase made of their rights in a portion of the territory embraced in what is now called by that name, by Colonel John Donaldson and by Dr. Thomas Walker at later dates. However, these treaties served the purpose of quieting the conscience of the white man, who could cite them as his authority for locating amid the rich canebrakes and sightly groves of beautiful Kentucky, where the Indians did not live, but for the possession of which as their hunting lands the warlike tribes from the South and North had battled from remote ages.

Settlements were made on the Kanawha in 1772. The hunters, traders, and explorers who had traversed Kentucky during the years following 1767, were but the precursors of the surveyors, who, in 1773, advanced to the Ohio and made numerous surveys along that river and in the contiguous territory. Among others, Captain Thomas Bullitt had received a commission from Dr. John Conolly to run the lines for a tract of 2,000 acres at the falls of the Ohio, and in the fall of that year a patent was issued therefor by Virginia to that mischievous intriguer. Before proceeding upon his mission, Bullitt took the precaution to obtain the consent of the Indians at Chillicothe, to whom he was introduced by Richard Butler, and who assented on condition that they should not be disturbed in their hunting south of the Ohio;—which sufficiently exhibits their contemptuous disregard for, if not their entire ignorance of,



the treaty of Fort Stanwix. But the circumstance of most potent influence upon the future settlement of the country on the Ohio was the liberal bounty in western lands given to the officers and soldiers of the Virginia troops who had served in the British army in the war of 1763. All Kentucky was then included in the vague boundaries of Fincastle county, Virginia, of which William Preston was at the time the surveyor. It was as the deputies of Preston, therefore, that John Floyd, Hancock Taylor, James Douglas, Hancock Lee, and others made their surveys for many of these officers and soldiers in 1774, all along the south bank of the Ohio, up the Kentucky, and among the cane lands which skirted the Elkhorn.

While the relations between the white and the red men during the ten years succeeding 1763 were nominally peaceful, and were really so between the Indians and the Pennsylvanians, who were traders; in fact there were frequent individual collisions between the Indians and the Virginians, who were settlers, and whose evident purpose it was to permanently possess and occupy the lands south of the Ohio. That the jealousy and animosity of the Indians were thoroughly aroused by the advent of these numerous parties of hunters, explorers and surveyors, upon the hunting grounds of Kentucky, over which they had roamed for unknown centuries, was but natural. From 1769, when Stewart fell the first victim in Kentucky in the war between the races, it continued to be waged with equal and inextinguishable ferocity and cruelty on both sides, until this fair portion of creation had been finally wrested from the savage, and teemed with a manly, brave, and generous people. Here the white and the red man seldom or never met without instant aggression from the one side or the other.

It is foreign to the purpose of these pages to more than mention the dispute between Virginia and Pennsylvania concerning the boundary between those colonies, as indirectly connected with the events which, in 1774, converted the aggressive belligerency of individuals into open

and general hostility between the races. The chief fomenter of the disturbances which grew out of that dispute was Dr. John Conolly; by whom also was issued the circular to all the settlers on the Ohio below Fort Pitt, which led to the murder by Michael Cresap and his party of the friendly Indians whom William Butler had sent as messengers to his agents and employes to return to Fort Pitt with the peltries on hand; to the murder by Cresap of the peaceable Indians at Captina; and to the murder by Great-house of the family of the Mingo Chief, Logan, at Yellow creek, with every attending circumstance of mingled treachery, cruelty and cowardice. These were the outrages which immediately led to the gathering of his dusky warriors by Logan, and their descent with avenging hate upon the settlers on the Monongahela, and to the various kindred acts of retaliation and revenge, on both sides, which speedily culminated in Dunmore's war of 1774. The surveying operations in Kentucky were suspended, the country was at once abandoned by the various parties of hunters, explorers and surveyors, to whom Boone and Stoner conveyed the warning messages of Dunmore, and who returned to Virginia, many of them to participate in the victory at Point Pleasant or to march with Dunmore into the Indian country in Ohio. They did not return to Kentucky until the ensuing year of 1775, when the first permanent settlements were made by Boone, Harrod, the McAfees, Logan and others. In the meantime, in spite of the well understood proclamation of King George prohibiting all purchases of lands from the Indians by private persons, and notwithstanding the treaty of Fort Stanwix (of which they probably were not ignorant), Richard Henderson and his associates of North Carolina, concluded in March, 1775, at the Sycamore Shoals, on the Watauga river, a treaty with the Cherokees; by which those Indians sold to the company all of whatever vague, shadowy and disputed claims they had upon a large part of the territory which the Six Nations had already sold to the King, and to which lands the Ohio Indians insisted that neither the Six Nations nor the Cherokees had any right or

title. Before the arrival of the alleged new proprietors, Boone and his hardy woodsmen, acting as pioneers for this Transylvania Company, had erected the first cabins at Boonesboro. The associates immediately proceeded to organize what they designed as a proprietary government, independent of Virginia, (by which colony the right of dominion was claimed), and having its own separate executive, legislative and judicial officers; and not only did they assume the authority to sell lands and convey titles, but also to put in operation all the machinery and to exert all the powers of government. Conflicts of titles and of jurisdiction at once sprung up, Virginia interfered and asserted her paramount authority, and, the proprietors acquiescing in the decision, the existence of the new republic was transitory, leaving no ripple behind to show that it had been even contemplated. Thus, in the very inception of the settlement of Kentucky, when but a few hunters, woodsmen, adventurers and surveyors inhabited its entire expanse of hill and valley, of woodland, canebrake and prairie, and when but a few monarchs of the primeval forest with which to construct the scattering huts and weak stockades had been felled, was witnessed the first effort for independence. But in the movement there is not discernible a trace of disloyalty to the cause of republican liberty, to which Virginia and her sister colonies were soon to become irrevocably committed.

Most notable of the daring spirits who had sought the west in 1774. was one of the gallant sons of a plain farmer of Albemarle county, Virginia, whose narrow and straitened circumstances did not permit him to afford his boys the educational advantages then within the reach of the offspring of wealthier Virginian planters. He was not in any sense well educated, even as that word was understood at the time in Virginia, where education was less general than it was in New England, but the more fortunate class of whose youth was not inferior to the same class in the more northern colonies in broad and liberal culture. A scanty knowledge of orthography and syntax, and a little acquaintance with backwoods surveying was

about all the learning to be gleaned from the text books which the young Virginian possessed. But strong native powers, quick perception, and an intuitive knowledge of men, more than compensated for his deficiency in the learning of the schools. His mental faculties were as ready and active as they were clear and vigorous. In enterprise he was as alert and audacious as he was cool, decided and intrepid in action. His open and handsome countenance invited the confidence of all; his eminently manly and martial bearing at once secured respect. A life passed in the open air, sometimes in labor, but more generally in surveying or in hunting, had strengthened a hardy constitution, had accustomed him to feats of endurance and endued him with uncomplaining fortitude. Instinctively men recognized in him a leader in all the vicissitudes of life on the border and in a debatable land. But to many of the highest and more valuable qualities was added the curse of passions he did not curb, and of appetites he could not control, which became his master, and which early sapped his strength, clouded his mind, undermined his character, and wrought his downfall. While the story of the achievements of George Rogers Clark as related by the historians is the most brilliant of all that illumine the annals of the west, that of his life, if truthfully written, would be found one of the saddest and most pitiful.

In 1772, Clark had come as far west as the Kanawha. Two years later he was on his way to Kentucky, and had reached a point some distance below Wheeling, in April, 1774, when he and the band of hunters with whom he was journeying determined to inaugurate a war against the Indians, under the leadership of Michael Cresap. It is ascertained from Clark's letter written in defense of Cresap, that the former was with the latter when the Indian messengers of William Butler were killed, and when the peaceful encampment at Captina was assailed; and it is mainly to his testimony that Cresap is indebted for his vindication from the charge brought by Jefferson, that he was the butcher of the family of Logan. Returning with Cresap to Redstone, Clark and most of the

hunters with him enlisted under Dunmore in the war which quickly followed, and the speedy recognition of Clark's singular capacity for command and personal intrepidity obtained for him a captain's commission. He was with Dunmore in his march into Ohio. During that fall and winter Clark, and many of the other soldiers under Dunmore and Andrew Lewis, made arrangements to proceed in their purpose to establish themselves in Kentucky, which had been interrupted by the brief but bloody struggle with the Indians; and the early spring of 1775 found him at Harrodsburg, where he at once assumed the leadership of as hardy and as brave a band of adventurers as any the world ever saw. In the fall he returned to Virginia, but the next spring made his way a second time to Kentucky, with whose settlement, defense and progress his name during the next ten years is inseparably and most honorably associated. He found the public mind as well as public affairs in the new settlements all in confusion. The claims of proprietorship asserted by the Transylvania Company were repudiated by many of the settlers, who preferred a formal request to Virginia to assert her paramount authority. North Carolina also denounced and rejected the private treaty made between Henderson and the Cherokees, and it was a disputed question whether the alleged purchase was within the jurisdiction of Virginia or in that of North Carolina. This knot the prompt mind of Clark decided to cut without waiting for it to be untied. At his suggestion a public meeting was held at Harrodsburg in June, 1776, which elected himself and John Gabriel Jones as members of the Virginia Assembly, provision for which was made by the convention of 1776. It is said, in the sketch published in Collins and written by a friendly and most partial hand,\* that this action was a disappointment to Clark, who wished to be appointed as an agent to negotiate terms with Virginia and not as a mere representative of a handful of the people of the new commonwealth. It may well be doubted if he had as yet fully

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\* Probably the late Judge Pirtle, who married a relative of Clark.

formulated any plan, except that if Virginia failed at once to assert her jurisdiction, he intended to use the lands of Kentucky as a fund to invite settlers and with them to establish an independent state [Collins]. Yet, accepting the inferior commission confided to their hands, he and his associate set out at once for Virginia. They found the convention adjourned, and the assembly not yet met. Their application to the council for ammunition with which to defend the west being met with a proposition to *lend* instead of *give* the needed supplies, it is stated by his eulogist in Collins, that Clark rejoined "that a country which is not worth defending is not worth claiming;" plainly intimating his intention to carry out his original design, to disregard the jurisdiction which the squeamish council hesitated to maintain for Virginia, and at once to assert and to endeavor to establish for the settlers who were huddled together at Boonesboro, St. Asaphs and Harrod's an absolute independence and sovereignty. The thread which bound spirits like his in the west to their countrymen in the east was indeed slender. Whether he could have carried with him the earnest men who had sent him as their representative, and not as their ambassador, to Virginia; and what might have been the effect of the action which he contemplated in a contingency which did not arise, are themes for conjecture. The powder which Clark demanded was furnished by the council, was conveyed by Clark and Jones and seven others from Pittsburg to Cabin creek, and thence was taken to the stockades of the interior. The first assembly of the new State of Virginia met in October, 1776. The record of the proceedings of its house of delegates on the second day of the session shows, that on that day was presented the petition of the "inhabitants on the western parts of Fincastle county," stating their grievances against the Transylvania Company, recognizing the jurisdiction and authority of Virginia, announcing their action in the election of two persons as members of the assembly, and requesting their admission as such, and avowing their readiness "to assist in the present laudable cause, by contributing their quota of men

and money." Two days later the committee reported to the house that the said persons could not be admitted as members because the "western part of Fincastle" was not allowed by law a distinct representation, but that "the said inhabitants ought to be formed into a distinct county, in order to entitle them to such representation;" and, after disagreements between the house and senate had been reconciled, a bill was finally passed abolishing Fincastle and dividing its territory into three distinct counties, one of which was Kentucky. The qualification for electors and representatives in the said county were "the possession of twenty-five acres of land with a house or plantation thereon, or one hundred acres without a house and plantation, and having right to an estate for life at least in the said land in his own right, or in right of his wife."

Having returned to Harrodsburg late in December, 1776, during the next two years Clark was constantly alert, active and energetic. Now in the interior of Kentucky defending the settlers and their stations; again along the Ohio, watching the Indians and guarding against invasion; then passing to and from Virginia, planning offensive measures and perfecting the organization necessary to their execution;—his vigilance was as ceaseless as his resolution was dauntless. The winter of 1778–9 witnessed his daring capture of Vincennes and Kaskaskia, which transferred our boundary to the northern lakes and added to the republic five states, rich in all the resources of boundless material development, and teeming with a population of restless energies. Had the achievement been less far-reaching and splendid in its ultimate results, it would still excite the admiration of all, by the endurance, hardihood, and courage of the men engaged, and by the audacity and skill of the hero by whom it was planned and executed. Henceforth the services of Clark were of a national character. The fort established by him at the Falls was of no avail to protect the settlers of the interior from forays by small bands of savages which crossed the Ohio at many points above and below. Still less could it prevent those



larger expeditions of warriors and trained savages under the leadership of white men, which were organized and equipped at Detroit, and which in secret wound their ways up the valleys of the Kentucky and the Licking until they reached points from which to vent their hate upon detached settlers, or to strike at the stations destined for assault or siege. Their defense devolved upon other gallant men, who in turn carried havoc, reprisal, and vengeance to the Indian towns of Ohio and Indiana. But it is foreign to our purpose to name them or to dwell upon their feats of daring, upon the instances of generous self-sacrifice which proved them noble, upon the sufferings and horrors to which they were subjected, or upon the dangers they braved with unquailing hearts and unflinching nerve. The last invasion of Kentucky by any large body of Indians ended at the disastrous battle of the Blue Licks. The preliminary treaty of peace with Great Britain was made known in Kentucky in the spring of 1783, and in July of that year, George R. Clark was formally notified by the governor of Virginia, in terms of praise and gratitude, that the state was no longer able to employ him as a general officer in her service.\*

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\* On the 103d page of his "Political Beginnings," referring to the passage of the Ordinance of 1787, Colonel John Mason Brown says: "That wide domain, from the Scioto to the Father of Waters, over which the *unaided valor* of Virginia's sons in *Kentucky* had established dominion, was readily absorbed into the new nation that was forming." The writer has been unable to find in the "Beginnings" any reference to the fact, that a large part of the men who marched with Clark against Kaskaskia and Vincennes were recruited in Virginia for that purpose. This omission, coupled with the statement just quoted, would convey the impression that the Illinois was captured by Clark and such soldiers as he was able to obtain in Kentucky alone, unaided from Virginia or any other source. This would seem to render proper the correction: That not only were a large part of the arms and all the ammunition obtained from Pittsburg, and paid for by Virginia; not only were the men paid, the supplies bought, and all the expenses borne, by Virginia;—but, in addition, a considerable portion of the men engaged were recruited in Virginia, and were transported by her from Pittsburg to the rendezvous at the falls, while others under Colonel Bowman marched by way of the Cumberland Gap and joined Clark. The impression has prevailed among many that nearly all the warfare in Kentucky and the West was



the result of merely individual effort. But, so far from that being the case, the men engaged in all this fighting acted as a part of the regular militia system of Virginia, and while in active service were regularly paid by that state. Formal reports of the ammunition and commissary supplies furnished to Boonesboro, Harrod's, and St. Asaphs were made by quartermasters to the Virginia executives, and the bills were settled by them. Some of those made by Joseph Lindsey (who fell at Blue Licks) the writer has examined. In every respect they would do credit to any quartermaster-general in the regular army.

## CHAPTER III.

THE INDIAN QUESTION AT THE CLOSE OF THE REVOLUTION—EFFORTS OF CONGRESS TO PRESERVE PEACE—THEY ARE RENDERED INEFFECTIVE BY THE JEALOUSY OF THE STATES.

That during the Revolution the Indian aggressions upon the Kentuckians were inspired and aided, and even planned and led by the British, is not open to dispute. It was fondly hoped that, upon the conclusion of the definitive treaty of peace in 1783, the ratification of which by the parties was exchanged in May, 1784, the British military posts in the north-west would be at once surrendered, and that the Americans would then be able to control the Indians. But one of the articles of the treaty prohibited the British from carrying away slaves belonging to the citizens of any of the States, and this was disregarded; the British contending that the agreement did not apply to negroes who had been previously freed by acts of war, and denying that they had taken away any others. While there may have been force in their argument, it is unquestionable that some of the negroes carried off by them were not in their hands, and had not become free by the acts of war, at the time the treaty was signed. It was also agreed in the treaty, that Congress would recommend to the States the repeal of all laws which interposed obstacles to the recovery of debts due to British citizens; and this Congress did, but, having no power to enforce this advice, it was rejected by several of the States, and notably by Virginia. It is probable that Great Britain had never entirely abandoned the hope of regaining the country west of the Alleghanies, or, at least, of separating it from the Atlantic States, and of extending over it her *protection*. At any rate, the failure by Virginia and other States to repeal their laws obstructing the collection of debts due to British citizens, was made the pretext for re-

fusing to surrender the military posts on the northern frontier, which were within the acknowledged limits of the United States as defined in the treaty of 1783. For a time after the declaration of peace the Indians continued pacific in their actions, if not in their intentions. But having never acknowledged the sovereignty of Great Britain, nor having ever been conquered by the United States, they found it impossible to comprehend how a treaty between those powers, with which they had had nothing to do, could extend over them the dominion of one of the parties thereto. They were divided into many tribes having between them no bond, while the several tribal organizations themselves, sometimes strong in the numbers and prowess of their warriors, were always weak in the absence of power to control the vicious of their own members. Thus it often happened that, while the great mass of the Indians might desire peace, a single tribe would be resolved on war; or, that a few bad men in a tribe would engage in rapine, for which the larger portion of the tribe were not willingly responsible. Nor was the wrong all on one side. In a country situated as Kentucky then was, it was inevitable that it should become a place of refuge for a full quota of the lawless from other sections, who found a vent upon the red men for their murderous and predatory passions. The savage blows in Kentucky invariably descended upon the innocent; and, if reprisal was sought by the whites across the river, the chances were a hundred to one that the guilty escaped while the unoffending perished. Thus, under conditions of a nominal peace, occurrences having all the features of the most horrible and relentless war were only too frequent; and though these were individual rather than general, they were not the less potent to keep the passions of the populations on both sides of the river in a condition of constant irritation. It is true that the acts which occasioned so much recrimination and retaliation were often and designedly exaggerated; yet enough was real and undoubted to constitute a serious grievance which loudly called for action and redress. That the Indians on their part were incited and encouraged by the retention of

the posts by the British is certain; and the charge was as sincerely believed as it was generally made at the time, that, after the declaration of peace, the murders and depredations by the savages in Kentucky were directly aided and countenanced by his majesty's officers at Detroit and elsewhere.

Upon the cessation of hostilities with Great Britain, Congress found itself immediately confronted by this Indian question: Should a war of extermination be waged against these powerful tribes, which would be swiftly bound together by common danger; or should a pacific policy be pursued and an honest effort be made to conciliate them by a course of justice and forbearance? The latter alternative was wisely chosen. But what was the Congress which made this election? At the conception of the Revolution, Congress began to conduct the Government, without any real authority, but its legislation was generally accepted by the States under the pressure of stern necessity; yet the central authority existed only by sufferance and might at any time be set at naught by the caprice or selfishness of the States. The public exigency demanded something more stable; the plan for a perpetual union under the Articles of Confederation was reported, adopted and submitted to the States for ratification, but that ratification was not finally completed by the action of Maryland until nearly the close of the Revolution. When this was done the government thereby formed amounted to little more than a mere agency for independent States, wanting in all the essentials of actual authority and real power. The executive as well as the legislative functions were vested in Congress; for a general judiciary no provision was made. No treaty could be valid unless ratified by nine of the States; no act of legislation was complete without the consent of an equal number. Even then the central authority was lacking in the auxiliary machinery necessary to the strict enforcement of the treaties so made or of the laws so enacted. Saddled with the duty of providing for the payment of the war debt, Congress was not clothed with authority to levy or

enforce the collection of taxes necessary to that end, but could only recommend to the States the levying of those taxes, which some of them did promptly, while others were dilatory, and some absolutely refused. It had the exclusive power of making peace or declaring war; but could neither raise nor equip an army, nor provide for its support when put in the field. That had to be done by and through the actions of the States, which might raise the men and provide the money at once to meet the exigency; or dally with the importunity; or altogether decline, as was dictated by a sense of duty, or by mean censoriousness and jealousy, or by the caprice of demagogues for the time in the ascendant. The desire of independence and the authority of Washington surmounted all these difficulties in the Revolution; but when the immediate necessity impelling to exertion and sacrifice was withdrawn, the Government was on every side balked and thwarted from the beginning, and the condition of public affairs soon became one bordering on chaos. In the midst of all the difficulties by which it was beset, the Government was denounced as imbecile and disgraced, by the very men who were the most open and active in setting at defiance its just and necessary authority, and who were the most potent factors, by their villification, contumacy and plots, in rendering it "despised abroad" and causing it to be "disobeyed at home;" and yet who, as naturally as inconsistently, preferred it, and preferred it for that very reason, to the new union, the Constitution of which they did all in their power to defeat, which they sought by construction to render even more despicable than the Confederation had ever been, and the friends of which they never ceased to revile. And it was inevitable that, in later years, the weak and sycophantic apologists for men who constantly misrepresented the actions and motives of the Government should find, in this denial to it of necessary powers, a justification for the corrupt intrigues and treasonable conspiracies by which they sought to divide the Union on the very eve of its birth. [See Butler, page 172.] It was

most fortunate for the hopes which depended upon success in surmounting all these difficulties, that there were others who had from the beginning viewed with alarm these defects, and had urged with sagacious patriotism the formation of a government clothed with power to enforce its own laws and to defend its own life; who, while striving to apply the needed remedy, loyally upheld the weak hands of the only government they had which represented even the shadow of American nationality; who remembered with gratitude that, even such as it was, it was under this government their strong arms had wrested their independence from the British king, and that, until a better could be devised and adopted, upon its support the maintenance of that independence solely rested; who, therefore, while always striving for something stronger than this "mere rope of sand," bore with patience the shortcomings that were inevitable under the existing conditions; who felt themselves linked with hooks stronger than those of steel to their sister States, by all their mutual sufferings and common sacrifices of blood and treasure in the war which the equal gallantry of all had brought to a glorious issue; and in whose hearts the sacred flame of patriotism was ever kept brightly burning.

Complaints made to Congress on behalf of whites in Kentucky of robberies and murders perpetrated by the Indians, were met by counter complaints from the agents appointed by Congress of outrages by whites upon peaceable Indians in Tennessee, Ohio, and Indiana. While the whites insisted that the Indians were wholly to blame, the Indians could with justice retort that the murders of whites were by lawless red men for whom they were not responsible; that these murders were perpetrated in retaliation, and that the blows which fell upon themselves were inflicted on the wholly innocent. While the whites had the greater degree of justice on their side, and had suffered the more seriously, the representations of the Indian agents were entitled to weight and had a basis of truth. To distinguish the guilty Indians was impossible, nor could it be always determined to what tribes they belonged. Con-

gress had but just inaugurated what was designed as a pacific policy; an invasion of the Indian territory by any large body of troops and striking indiscriminately at the Indians would have been inconsistent with all these professions and have kindled a general war. In the meantime, the settlers in Kentucky were naturally restive under their many grievances. Congress was not indifferent to their sufferings, but the jealousy of the States refused to Congress the means of efficient action. If Congress moved more slowly than was demanded by conditions apparent to Kentuckians, the embarrassment and perplexity of the situation as it appeared to Congress, as well as the deficiency of means at the disposal of Congress, should be remembered. The idea which was then promulgated by demagogues, that the failure to act as expeditiously and as vigorously as the occasion appeared to them to demand, proceeded from hostility to the western people on the part of their countrymen in the east, from a callous indifference to their sufferings and grievances, or from an unnatural sympathy with the Indians and prejudice against the whites in the conflict, will not now be received with favor by the unbiased historian nor be countenanced by the candid thinker.

Pursuing the policy of pacification which had been determined upon, in March, 1784, George Rogers Clark, Richard Butler, Nathaniel Greene, Oliver Walcott and Stephen Higginson were appointed by Congress to negotiate with the red men. Higginson and Greene declining to act, Arthur Lee and Benjamin Lincoln were appointed in their places. The necessity for protecting the commissioners by an armed force pending the negotiations upon which they were directed to enter, occasioned the introduction of several propositions to provide the requisite troops; but, after prolonged debate in Congress, the best that could be done was to secure a recommendation to the States to furnish seven hundred men from their militia, three hundred of whom were to be used in the immediate protection of the commissioners. In the following October, a treaty of peace and friendship was concluded with

the Six Nations at Fort Stanwix by Butler, Walcott and Lee; and in January, 1785, a similar treaty with Wyandottes, Chippewas, Delawares and Ottawas was concluded at Fort McIntosh by Butler, Clark and Lee. In March of the same year additional commissioners were appointed to treat with the Southern Indians, and in November a treaty was negotiated by Benjamin Hawkins, Andrew Pickens, Joseph Martin and Lauchlan McIntosh, with the Cherokees, at Hopewell; which was followed in January, 1786, by treaties with the Choctaws and Chickasaws, negotiated by the same commissioners. The circle was completed by a treaty concluded in January, 1786, at the mouth of the Miami, with the Shawanese and some of the Delawares and Wyandottes, by Butler, Clark and Parsons, the last named having taken the place of Lincoln.\* However well intentioned these philanthropic measures were, they did not cause a cessation of individual warfare between the Kentuckians and Indians. A large number of the Shawanese, who had been coerced by the treaty at the mouth of the Miami to acknowledge the absolute sovereignty of the United States over the whole country ceded by Great Britain; to yield up the ownership of large tracts of their most valuable lands on the east side of the Miami to the United States for settlement by the whites; and to receive as a *grant* from the United States the lands on the west of the Miami, of which they had had the undisputed possession for ages, were incensed at those provisions, and wreaked their vengeance upon the Kentuckians. The Indians on the Wabash further to the west, who had never entered into any of these treaties, had their apprehensions and jealousies excited to fever heat by the various measures indicating a purpose by the whites to settle upon

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\* It appears from General Butler's private journal, published in the "*Olden Time*," in 1846, that *he*, and *not* Clark, was the actor in the scene with Kew-Kewepellethe, which has been attributed to Clark by Judge Hall. The account given by Butler was written on the very day of its occurrence. The journal in question was given to the publisher of the "*Olden Time*," by General Butler's son, the gallant Captain James Butler of the "Pittsburg Blues," in the war of 1812. There can be no doubt of its authenticity.



their territory, and continued their hostile aggressions. In the meantime bands of white men traversing the country on both sides of the river rarely met an Indian without killing him; and their acts were retaliated upon the people of the district. These harassments and outrages became so frequent and grievous, that the county lieutenants made an earnest and spirited representation to Patrick Henry, then the Governor, soliciting protection; and, as Virginia herself possessed no technical right, without the authority of Congress, to authorize a hostile expedition into the territory north of the Ohio, which she had previously ceded to the central government, these complaints and demands for redress were in time laid before Congress. The treaties recently made, the complaints received of aggressions by the whites upon the Indians, combined with the inherent weakness and lack of means of the central authority to prevent immediate action by Congress. During the summer of 1786, Governor Henry informed the people of Kentucky that he had represented their situation to Congress, and had urged the adoption of measures for their protection; but in a private letter to Benjamin Logan he stated the inaction of Congress. At the same time he gave general directions to the county lieutenants, instructing them "to adopt the necessary means of defense;"—which, as no one had ever doubted their perfect right under the laws to resist attack and repel invasion, was construed to authorize offensive operations as the most effectual means of defense. A meeting of militia officers was held at Harrodsburg. Benjamin Logan, who was the senior county lieutenant, and as such was entitled to command, gave his opinion that George Rogers Clark, who was not then in commission, should be called on to lead them, and, under this advice, Clark was placed at the head of a force of a thousand men, who speedily assembled and marched for the rendezvous at Clarksville, opposite the Falls. In the meantime, as doubts were entertained of the power of county lieutenants to impress men, provisions and supplies, that question was submitted to the judges of the district court, who gave a written opinion

that all the power possessed by the assembly was delegated to and vested in the county lieutenants. Prior to the levying and mobilization of this force, the slowly moving Congress had responded to the appeals of Governor Henry by sending to the Falls two companies of regulars, out of the few placed under their control by the jealous states, and upon the 30th of June had authorized the raising of the militia of Kentucky, and the invasion of the country of the mischief makers, under the command of the leading United States officer [Western Annals]. While, therefore, the expedition, which was originally designed as against the Wabash Indians, was not organized nor undertaken under these orders of Congress, yet these orders may be fairly construed as fully sanctioning the aggressive movements which had been directed by the Virginia executive. It is now necessary, before proceeding further, that the reader shall turn back a few years in this review of the record.

## CHAPTER IV.

## THE INITIAL STRUGGLES OF KENTUCKY FOR AUTONOMY.

For some years prior to the treaty of peace with Great Britain, Benjamin Logan had been second only to Clark in command and influence; he was "second to none, perhaps, in the peculiar military talents which the defense of this country at that time required." When Clark was retired from his position as a general officer in the service of Virginia, the direction of military affairs in the district devolved upon Logan, as senior colonel and senior county lieutenant (of Lincoln county). In 1784, he received information of a proposed invasion of the district by the Cherokees in large numbers. Whether the intelligence was purely sensational, or the project was abandoned, can not positively be affirmed; but that Logan gave full credit to the communications made to him is as certain as that the invasion itself was never actually made. On his own responsibility he issued a call for a meeting of the officers of all the several military organizations of the district, to be held in Danville in November, 1784, for the purpose of consultation upon measures necessary to repel the threatened attack, or to anticipate it by carrying war home to the Cherokee country. The sense of the meeting was unanimous that the true policy of defense was not to await the torch and tomahawk of the Indians at the hearths of the detached settlers, but by offensive operations to fight the battle in the Indian country. But no one was authorized to order such an expedition; and, if ordered, there were no laws providing for calling out the militia, to pay for provisions, or for the services of officers or men, nor to purchase the necessary ammunition; and it was felt that the danger was not sufficiently apparent nor immediate to justify a reliance upon voluntary contributions or enlist-

ments. So the contemplated movement was abandoned.\* This meeting of militia officers called by Logan issued a circular address to the people of the district, recommending that on a day named each militia company should elect one representative, to meet at Danville, on the 27th of December, 1784, to take into consideration the same important question of self defense. This meeting was held at the time and place designated, and was presided over by William Fleming, who is briefly described in the "Political Beginnings" as "an influential citizen."† The

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\* In this connection it may be regarded as worthy of note, that, on the 22d of May preceding this meeting, James Speed, the grandfather of Mr. Lincoln's attorney-general of the same name, who had been appointed a magistrate at the urgent solicitation of Willis Green, the clerk of Lincoln, wrote from his home in that county to Gov. Harrison: "Many of the inhabitants of this place (Danville?) are not natives of Virginia, nor well affected to its government, and are sowing sedition among its inhabitants as fast as they can, which I fear will have too great an effect so long as we are pent up in forts and stations, notwithstanding the attorney-general (Walker Daniel) has taken every step in his power to suppress them. . . . I fear the faction will increase, and ere long we shall revolt from government in order to try if we can govern ourselves, which, in my opinion, will be jumping out of the frying pan into the fire." [*Virginia State Papers.*]

† Col. William Fleming was a native of Scotland, and was educated as a physician. He came to America after the Braddock campaign, but saw some military service before the conclusion of the French and Indian war. He settled in Bottetourt county, Va., and commanded the regiment from that county at Point Pleasant, where he was wounded. He was long a member of the Virginia assembly and council, and in 1881 was for a time acting governor of that state. He was a large land owner in Kentucky, and at the time represented in the Virginia senate the district which included all Kentucky as well as Bottetourt, and a number of other counties in the valley and South-western Virginia. He came to Kentucky in 1779 as one of a commission to provide for the execution of the statute to regulate the claims to land in the district. He returned to Kentucky in the fall of 1782, with Samuel McDowell, Thomas Marshall and Caleb Wallace, who, with him, constituted a commission to settle the accounts of the officers engaged in the several expeditions against the Indians. He did not settle in Kentucky, but, being here at the time the meeting of 1784 was held, his official position as the senator of the district naturally suggested him as a suitable person to preside over its deliberations. Col. Fleming's wife was a sister of Col. William Christian. The present William B. Fleming, of Louisville, is their great grandson.

meeting was animated by patriotism; its conduct was marked by decorum. In its judgment many of the obstacles to that vigorous defense of the district which was sought by its members could be remedied by suitable legislation by the general assembly; but others, and those the most serious, from the essential nature of the situation could only be overcome by a separation from Virginia and the erection of the district into an independent member of the confederation.

These opinions were embodied in a resolution in favor of applying to the General Assembly for legislation rendering Kentucky independent of Virginia. This met with opposition from many, whom the suggested action filled with strong forebodings. The meeting, therefore, modestly forbearing to make the contemplated application to the General Assembly, earnestly recommended to the people, that, at their regular elections for members of the Virginia Assembly, in the ensuing April, they should choose delegates to meet in convention at Danville, in May, for the express purpose of considering and deciding the question of an application for the suggested separation. Accordingly, twenty-five delegates were elected from the counties of Fayette, Jefferson, Lincoln and Nelson, into which the district had then been divided, and organized by the election of Col. Samuel McDowell,\* as

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\* A sketch of Col. McDowell may be found in "*Historic Families of Kentucky*," by the writer of these pages. In his "*Border Warfare*," Withers states that John McDowell was a private soldier in the French and Indian war, in the company commanded by Lewis. The list of the soldiers published in *Henings' Statutes* shows that it was Samuel. Both Arbuckle and Stuart omit the name of McDowell from the list of captains who fought at Point Pleasant. A news letter written at the time and published in Belfast, as well as the account given of the battle by Isaac Shelby, shows that one of the captains who, after Fleming and Lewis had fallen, advanced with Field and checked the triumphant Indians, was McDowell; and the records of the convention of 1776, of which he was a useful member, prove that Samuel McDowell commanded a company in that battle. Peyton, in his "*History of Augusta County*," states that Major Alexander Stuart commanded the regiment of Virginia militia, from Augusta and Rockbridge, which did such gallant service at the battle of Guilford Court House,—commanded it in the absence of Col.

president and Thomas Todd as secretary. Of this convention, George Winter, Christopher Greenup, James Speed, Robert Todd, Robert Johnson, Caleb Wallace, Benjamin Logan, Willis Green, Hary Innes, Levi Todd, Richard Taylor, James Garrard and John Edwards were members. It was decided that a separation from Virginia by constitutional methods, and admission as an equal member into the confederation, were desirable; that a petition to the General Assembly in accordance with this judgment be prepared; that an address to the people of the district be published; and that the proceedings of the convention, the petition and the address be referred to another convention composed of delegates to be elected in July, 1785, and to meet in Danville in the following August. The acts of the convention were direct; the language employed was free from ambiguity; and there is evidence in what was done of an absence of ulterior designs. The convention could have acted immediately as well as refer its proceedings to another similar body. Marshall attributes its failure to do so and the delicate conservatism of its course to an uncertainty of an approval by the people, among whom there was far more pronounced opposition to the separation than there was among the members of the convention. The petition to the Assembly, calm and temperate, and exhibiting no effort at display, breathed the true spirit of the resolutions which had been adopted, basing the application for separation upon the local situation and the grievances necessarily resulting therefrom, and dwelling but briefly and without exaggeration upon them in detail. The address to the people, somewhat warmer in tone, was evidently intended to impress upon them a deeper sense of injury than the people themselves had yet entertained. It indicates that the members of the convention were conscious of be-

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Samuel McDowell, who was sick at the time. The journal kept by Rev. Samuel Houston, who was a private in that regiment, clearly shows that Col. McDowell commanded his own regiment in that engagement, which is confirmed by McDowell's letter concerning the battle, published in the "*Virginia State Papers*."

ing in advance of their constituents in their desire for separation, and deemed it necessary to expatiate upon their grievances, the extent of which the people might not otherwise comprehend. It is known that this address was drawn by James Wilkinson, who was a spectator, though not a member, of the convention, and who had the preceding fall come to Kentucky from Philadelphia in order to engage in commercial pursuits. He was dissatisfied with the address to the Assembly as too tame and moderate. It was by his counsel the convention of August was called. That convention was chiefly composed of members who sat in the one preceding; but Green and Greenup did not have seats in it, and among the new members were Wilkinson, John Coburn and Robert Patterson. McDowell was president and Todd secretary. The petition to the Assembly adopted by the convention of May was never sent to that body. It was completely ignored by the convention of August, to which, by the management of Wilkinson, it had been referred. In lieu thereof, one less simple, abounding in rhetorical flourishes, and having an entirely different tone, of which Wilkinson himself was the author, was adopted and forwarded. It was less a petition than a demand. The Assembly was asked to pass an act "declaring and acknowledging the independence of the district;" expression was given to the "persuasion" that the independent and sovereign state acknowledged "would as cheerfully be received into the continental union on the recommendation of our parent state."

The declaration and acknowledgment of sovereignty and independence asked for was not at all to be contingent upon the admission into the confederation of the State sought to be erected. Whether the schemer even then contemplated and endeavored to prepare for a separation from the Union as well as from Virginia, which two years later he engaged to promote, is not important. If so, he had few, if any, confidants, and at the time he was not suspected of illicit design; the large majority of the convention, as well as of the masses of the people, were in-



dubitably true to the Union. It was arranged that this petition should be presented to and be urged upon the Assembly by George Muter and Hary Innes.\* Another address to the people, more exciting, impassioned and exaggerated in expression and tone than the one which preceded it, and well calculated to subserve its author's design of inflaming the minds of those to whom it was directed, was adopted and circulated. This, too, was written by the controlling spirit of the convention—Wilkinson. The second resolution of this address was an argument for, and plainly implied, an *assumption* by the district of that sovereignty and independence which the petition to the assembly requested that body to declare and acknowledge. The report of the Committee of the Whole, into which the convention resolved itself, was modeled after the Declaration of Independence. The assertion made therein, that "The law imposing a tax of five shillings per hundred acres, on lands previously sold, and directing the payment thereof into the Register's office at Richmond, before the patent shall issue, is equally subversive of justice as any of the statutes of the British Parliament, that impelled the good people to arms," is noteworthy as an illustration as well of the animus by which it was dictated as of the inflated and exaggerated tone of the entire report.

Whatever may have been thought by the General Assembly of the tone of those papers, the existence of grievances as serious as they were real, was apparent to all. The justice of the request for a separation was promptly recognized by the passage of an act in January, 1786,† for

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\*The statement made by Marshall and others that Muter was at the time Chief Justice of the district is an error. Cyrus Griffin had been elected to that position at the session of the General Assembly preceding this convention, but refused to accept. While attending the following session of that body, Muter was elected Judge of the General Court to fill the vacancy occasioned by Griffin's declination. Innes at the time was Attorney-General of the district. During the session acts for his benefit were passed by the Assembly.

†Mr. Madison, who was a member of the House Committee on Courts of Justice, from which the act in question was first reported, was its au-



the separation and erection of the district into a *State of the Confederation*. Provision was therein made for an election in the ensuing August of representatives to a *fifth* convention, to be held at Danville on the fourth Monday of September, 1786, which, after organization, was to determine "whether it be expedient for, and the will of the good people of the said district, to be erected into an independent State," on terms and conditions as defined in the act. If the said convention approved "of the erection of the district into an independent State, on the foregoing terms and conditions," they were empowered "to fix a day *posterior* to the first day of September, 1787," on which the authority of Virginia should "cease and determine forever." But the fundamental condition precedent was wisely annexed, "That *prior* to the first day of June, 1787, the United States, in Congress assembled, shall assent to the erection of the said district into an independent State, . . . and shall agree that *immediately* after the day to be fixed as aforesaid, *posterior* to the first day of September, 1787, or at some convenient time *future* thereto, the new State shall be admitted into the Federal Union." [Henning, vol. xii, page 37-40.] Thus, every thing was made contingent upon the *previous* action of Congress assenting to the statehood of Kentucky and providing for her admission into the Union. And, "in order that no period of anarchy" might "happen to the good people of the proposed State, the convention to meet in September, 1786, was required to take measures for the election and assemblage of another convention," "at some

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thor in the original form. It was amended in the House, and was passed by that body January 6, 1786. James Garrard was designated as the messenger to inform the Senate of this action, but the duty was actually performed by Christopher Greenup. On the next day, January 7th, the bill was referred to a committee, of whom General Henry Lee was one, and John Brown, who had succeeded Colonel William Fleming as the Senator from the district which included Kentucky, was another. On the 10th, Mr. Brown reported that the committee had, "according to order, had the said bill under consideration, and had made no amendment thereto." It was then passed by the Senate, and the enrolled bill was signed January 16, 1786.

time *prior* to the day fixed for the determination of the authority of this Commonwealth . . . and *posterior* to the first day of June, 1787, . . . with full power and authority to frame and establish a fundamental constitution of government for the proposed State, and to declare what laws shall be enforced therein until the same shall be abrogated or altered" by the authority acting under the constitution thus adopted. The act was forwarded to the members of Congress from Virginia, who were instructed to use their endeavors to secure from Congress the necessary assent and provision for the admission of Kentucky into the confederation.

It will be seen that this act was not what had been asked for, or demanded, in the petition drawn by Wilkinson. That petition requested the declaration and recognition by Virginia of our independence and sovereignty, leaving the state so recognized and declared thereafter to find its way into the confederation. The act, on the other hand, made every thing contingent upon the previous favorable action of Congress,\* while the steps required to be taken in the district necessitated delay. However vexatious this delay and this most wise and prudent condition was to Wilkinson, and may have been to others whom he had imbued with his spirit, by the great mass of the people the well considered act of Virginia was received with patient satisfaction. A general disposition was manifested to conform to its provisions. But Wilkinson, who had drawn the request for an acknowledgment of sovereignty and independence, now urged that the circumstances of

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\* In a letter to Washington, Mr. Madison wrote: "The apparent coolness of the representatives of Kentucky, as to a separation, since these terms were defined, indicates that they had *some views* that will not be favored by them. They dislike much to *be hung* upon the will of Congress." [Sparks' Washington, vol. 9, page 510.] Four days after the passage of the act, John Brown was given leave of absence for the rest of the session. Though he continued a member of the senate, he was not at any time present during the session of the fall and winter of 1786-7, and never again made his appearance in the senate, until about the time he was elected to Congress in October, 1787. [See Journals of Virginia Senate, 1785-6-7.]

the district would not admit of delay ; that, though authority existed to repel invasion by the Indians, there was none for hostile excursions within the Indian territory. He boldly advocated the immediate declaration and assumption of independence and sovereignty by Kentucky, without compliance with legal formalities, without regarding the conditions of the act of the assembly, and without waiting for the assent of Congress or for any provision for admission into the confederation. All that, he argued, was matter for future action ; and, in the meantime, the exigency was instant. [Marshall, page 242 ; Collins, page 262.] Wilkinson was active and heated in the promulgation of his views. He announced himself a candidate for the convention, and it was given out in speeches made by Wilkinson himself, as well as in those made by the friends who were warm and zealous in his behalf, that he would, on the first day of the election, at Lexington, address the people, in order to persuade them to an immediate separation, without regard to the conditions imposed by the act of the assembly. Many were alarmed by those utterances ; many who were in favor of the separation itself, yet deemed the evils that might be for a time continued by awaiting the time designated, and pursuing the course pointed out by the general assembly, far less to be dreaded than the consequences of this revolutionary course which Wilkinson urged. It was determined that his election should be opposed and that his heralded speech should be answered. The person selected to reply to the speech was Humphrey Marshall ; \* it is probable that as a candidate

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\* Humphrey Marshall was a son of John Marshall and Mary Quisenbury ; a nephew of Col. Thomas Marshall, whose daughter Mary he married. He was born in Virginia in 1760 ; his father's circumstances were narrow, so that his early educational advantages were limited. However, he was sent when a boy to the home of his uncle, Thomas Marshall, and for a time studied under Scotch tutors with that relative's children. Those studies were interrupted by his joining the army. The following is the brief record of his military service as it appears upon the papers of the land office at Richmond, Va., viz :

*Richmond, December 14, 1782.*

I certify that Humphrey Marshall was a cadet in the state artillery in

for the convention he also led the opposition to the election of Wilkinson. In the speech made by the latter in Lexington a number of the laws of Virginia were bitterly denounced as unjust and oppressive, and it was represented that the people of the mother commonwealth, being themselves secure, were indifferent to the dangers experienced and to the sufferings endured by their sons and brethren in Kentucky. The perils by which they were surrounded were grossly exaggerated, as the means most likely to be successful in inciting the people to precipitate and illegal action. They were urged to immediately cut loose from Virginia, and at once erect themselves into an independent and sovereign state, without complying with the conditions of the act which provided for the election they were about to hold, without obtaining the assent of Congress, and without the passage of any act for admission into the confederation. The thoroughly revolutionary principle was asserted and maintained, that the right proposed to be exerted did not proceed from the legislation of the state, nor was it dependent thereon, but was inherent in the people of the district, and could be exercised at their discretion.

These arguments were refuted and this position was vigorously assailed by his young antagonist, whose strong natural powers, in spite of the deficiency in his early advantages, fully equipped him for such a debate. Taking no issue with Wilkinson as to the propriety and even ne-

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1777; made an officer in the same regiment in 1778; a captain L. 1, December 18, 1779; and that he is now a supernumerary.

GEORGE MUTER, COL. S. G. R.

BENJAMIN HARRISON.

Warrant for 4000 acres issued to Humphrey Marshall, December 19, 1782.

He was a purchaser at the second sale of lots in Lexington, in 1783. But he was certainly in Kentucky before that time; probably settling in the district the year before, and becoming a deputy under his uncle, Col. Marshall, in the surveyor's office of Fayette county. In the meantime he had studied law, of which profession he became an able and distinguished member. He returned to Virginia to marry in 1784. At the time of his first collision with Wilkinson he was twenty-six years old.

cessity of a separation, the *time* when this should take place, and whether independence and sovereignty should be assumed as an inherent right or be regulated by the law of the parent State, became the particular subjects of controversy. It was shown that the aggressions of the Indians were growing less frequent and the magnitude of the grievance from that source was decreasing, while the constant influx of population into the district was daily adding to its means and facilities for defense. And much stress was laid upon the impropriety and dangerous tendency of the disregard for law which would be manifested by the course advocated by Wilkinson, as well as upon the pernicious consequences of the revolutionary principle upon which it was founded. Unable to maintain the position he had assumed, Wilkinson then resorted to the subterfuge of contending that the expression in the law, "*posterior* to the 1st of September, 1787," which regulated the time of the separation, meant *before* and not *after* that date. In the rejoinder, his young antagonist placed the orator between the horns of a disagreeable dilemma: "Either he did not know the meaning of the word '*posterior*' or he meant to impose upon his audience. In the one case he was unfit to guide; in the other unsafe to follow." [Marshall, page 243.] The friends of Wilkinson prevented the opening of the polls until late in the day; and, when it was found that he received but few votes, while the bulk of those cast were bestowed upon his opponent, they had the polls soon closed for the day. Those of the opposition who were thus disappointed in their purpose to vote on the first day of the election, proclaimed their intention to return and vote on the last day. (The election lasted five days.) Wilkinson's friends were driven to resort to a trick to secure his election. The militia officers, who were in his interest, were induced to order musters on the last day of the election in those parts of the county unfavorable to him. To these musters the people were summoned, and many of his opponents who attended thus lost their votes, while his friends disregarded the summons

and voted. In those portions of the county favorable to him, no musters were ordered, and the activity of his friends obtaining the polling of a full vote, his election and that of his associates on the ticket was secured.\* [Marshall, page 244.]

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\* Wilkinson never forgave this opposition and exposure by Humphrey Marshall. Two years later an attempt was made by Jordan Harris to assassinate Marshall, upon the absurd failure of which a series of vituperative and scurrilous assaults were made upon Marshall in the *Lexington Gazette*, over the signature of Harris. These were written for Harris (who seems to have been as weak as he was violent) by a protege of Wilkinson, and were paid for by him.

## CHAPTER V.

THE EXPEDITIONS OF CLARK AND LOGAN IN THE FALL OF 1786—THE HUMILIATING FAILURE OF CLARK'S EXPEDITION AND ITS CAUSE—HIS CONDUCT AT VINCENNES AFTER THE EXPEDITION HAD BEEN ABANDONED—LOGAN IN NO WAY CONNECTED THEREWITH—THE IL-LICIT ENTERPRISE OF GREEN, AND CLARK'S CONNECTION—THE GOV-ERNOR INFORMED BY LETTERS FROM DANVILLE—CLARK CENSURED—THE MEN WHO WERE RESPONSIBLE—THE DECEIT PRACTICED BY BROWN AND INNES IN 1806, IMITATED BY COLONEL J. M. BROWN IN 1890.

It has been stated that the militia who organized under the leadership of George Rogers Clark, in the fall of 1786, for an expedition against the hostile Indians of the Wabash, rendezvoused at Clarksville,\* Indiana, where more than a thousand men assembled early in September. But the number not being deemed sufficient to accomplish all the objects of the expedition, a council of war was held on the 13th of September, of the field officers of the several counties, which was presided over by Benjamin Logan, and at which it was determined that a field officer from each county should return, get together all the deserters and delinquents and collect the rest of the militia as soon as possible, and march with them to rejoin Clark at Vincennes. General Logan, Colonel Levi Todd, Colonel Robert Patterson and several others were selected to execute this order. The next day, however, Clark addressed to General Logan a written order directing him to assemble the militia as decided by the council of the field officers, and to impress supplies, etc.; but, instead of re-

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\*Virginia had given to Clark and his officers and men who captured Kaskaskia and Vincennes (1778-9) 200,000 acres of land in one body lying along the Ohio river, in Indiana, as bounty for their services in that campaign. In the midst of this grant, the town of Clarksville was incorporated and established. It was situated opposite the Falls, at a point between the present cities of New Albany and Jeffersonville.

joining him, to march at once to surprise the Indians of the Mad River towns in Ohio, with whom Clark had assisted in negotiating a treaty in the preceding January (at the mouth of the Miami), but who were charged with violating that treaty. Logan, Todd, Patterson and the others deputed for the purpose left Clark immediately, and proceeded with great celerity to execute his commands. Logan quickly collected his men, crossed the Ohio at Maysville, and, marching with equal rapidity and secrecy, would have surprised a large body of those Indians in their principal town, had it not been for the alarm given them by a deserter. As it was, a number of warriors were killed, many prisoners were captured,\* and the Indian country was swept with fire. The completely successful expedition returned in twenty days.

While Logan was thus performing the duty to which he had been assigned, Clark marched to Vincennes. There a delay of nine days ensued while awaiting the arrival of provisions and stores which had been shipped from the Falls. When these arrived, the larger part had been spoiled. It is said that Clark opposed this delay, urging a forced march against the Indians, but was overruled by his officers, some of whom have been charged with exciting the men to mutiny. In spite of the considerable disaffection which was at once manifested, the march towards the Indian country was resumed, on short rations, until, after two or three days of discontent, nearly one-third of his men refused to proceed further, and, led by their officers, determined to return to Vincennes. Notwithstanding this defection, the force remaining with Clark numbered more than six hundred gallant men, a larger and better equipped body than any of those with which he had in former and better days spread desolation throughout the Indian country, and made his name a terror to the savage heart. It was large enough, had other conditions been favorable, to have accomplished the object sought. But

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\*Among the prisoners taken were the wives of Moluntha, whom McGary had murdered, and his son, who took the name of Logan, became a friend of the whites, and was murdered by Indians in Illinois, in 1812.



mutual confidence between the men and their chief no longer existed. After a hurried and tumultuous council, the order for the return was given; the two parts of the army uniting in the evening marched together back to Vincennes, which they reached on the 8th of October. It has pleased the indiscriminating eulogists of a gallant man to place the entire responsibility for this most mortifying of failures upon the officers of General Clark, who are alleged to have been his enemies and to have envied his fame. Those officers have been charged with sowing the seeds of dissatisfaction among the men, by falsely representing Clark to have been unfit for command; and contemporary chroniclers relate as an instance of the alleged calumnies set afloat by those jealous officers the report which was current, that Clark had sent a flag of truce to an Indian town, offering them the choice of peace or war, and had thus destroyed the chance of a surprise, which was of such immense importance in savage warfare. But care has always been taken not to name those *enemies*, and not to state any causes they had for enmity.

At this distance the unbiased reader will find it easier to believe, that the charges made by those officers were true, and that Clark was unfit to lead, than that three hundred Kentuckians, who had never before turned their backs upon a foe, availed themselves of lying pretexts to abandon a commander of such brilliant prestige, and to turn back from an expedition in which they had voluntarily embarked. After all, the truth would be but a melancholy repetition of the story which families all over the world lament to relate of kinsmen, whose brilliant promise and achievements in youth served to render the more gloomy the clouds and darkness in which the sun of their lives went down. That truth is, that the life of exposure to which Clark had been subjected had tempted him to resort to stimulants to sustain his strength and energy; that the inducements to this dangerous indulgence had increased during years of comparative idleness, which to so vaulting and proud a spirit was well nigh insupportable; and that the pernicious habit had grown upon him

until it had become his master. A slave to his own passions and appetites, the power to control which he had lost, he had become unfitted to guide or command others. By frequent exhibitions of himself in an intoxicated condition and with clouded mind, in his camp and to his men, he had at once forfeited their confidence and their respect, and their unwillingness to trust themselves to his direction and to march to battle under his orders, was as natural as it was inevitable.

Upon returning to Vincennes a council of field officers sanctioned, so far as such a body could give sanction to such a measure, Clark's determination to maintain a garrison at Vincennes, which was in the heart of the territory Virginia had years before ceded to the United States, and over which Virginia had neither control nor jurisdiction. If the strategic value of this movement as a measure for the protection of Kentucky against the Indians was open to question, there could be none that Virginia herself had no power to authorize it without the consent of the Congress, nor of the impropriety, to use no stronger phrase, of Clark's proceeding therein, as a sort of private enterprise, without the assent of Congress or the direction of his state. Nevertheless, measures were taken to recruit a garrison of 250 men under Colonel John Holder, and a company of artillery to be commanded by Captain Valentine Thomas Dalton, and of this corps General Clark "assumed the supreme direction." If the organization of this force resembles the banding together of the "free companies," which terrorized Europe in the middle ages, those placed at its head had as little respect for private right as that exhibited by the most predatory of the Condottierri. Clark commenced at once to levy recruits, appoint officers, and impress provisions, without the pretense even of legal warrant, and without the shadow of any other authority than that *which proceeded from himself*.\*

But ere long he went further than the levying of this irregular force and the illegal and unauthorized seizure of

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\* Secret Journals of Congress, LV., page 310.

private property for their sustenance. His once clear and vigorous mind had become inflamed by indulgence and made desperate by the chagrin of failure. His rage found a vent upon the unoffending Spanish merchants who had established themselves as traders at Vincennes, Kaskaskia, and at other points in Illinois. Under his orders their property was seized and confiscated; not merely that which could be used for military purposes, but furs, taffy, honey, various descriptions of dry goods, etc., which were sold. Clark asserted that the proceeds of the sales were used to pay the men whom he recruited. But there was evidence which was generally believed at the time, and which there was only too much reason to believe, that a large part was appropriated to private purposes. Boats coming from Vincennes to New Orleans were seized; one was robbed of property belonging to Spaniards to the amount of \$10,000—in retaliation, as was alleged.\* Universal complaint of the lawless depredations of Clark's men went up from the French residents at Vincennes and Kaskaskia. In their proclivities for plunder they were a mere banditti, but little better than Indans.† These robberies, for as such they were branded at the time and really were, occurred not only after Clark's expedition against the Wabash Indians had been definitely abandoned, and they had agreed to attend a Grand Council at Vincennes, in the ensuing April, to make a treaty of peace and friendship, but also after the return of Logan from his successful expedition against the Shawanese, on the Mad river. From a purely military standpoint, it appears from Logan's letter to the governor, that he regarded the garrisoning of Vincennes as a "wise and prudent" measure. But he had refused Clark's request to convene a board of field officers to sanction the seizure of supplies to sustain a garrison outside the limits of the district and beyond the jurisdiction of Virginia.‡ He was in no way responsible for nor connected with Clark's

\* St. Clair Papers, Vol. II, page 21.

† Ibid., page 22.

‡ Virginia State Papers, Vol. IV, 202.

mortifying failure. And the condemnation brought upon Clark by his subsequent conduct at Vincennes never cast its shadow upon the fair fame of Logan. Nor had that gallant man any participation in the designs far other than the defense of Kentucky against the Wabash Indians, which contemporary evidence too clearly establishes, were entertained by the mind of Clark—unhinged by excess and rendered desperate by mortification. There is an unhappy concurrence of evidence that Vincennes was to have been used as the base from which the attack, which Clark meditated, upon St. Louis and the Natchez was to have been made; and that these seizures of the property of Spanish subjects were intended to precipitate a collision with that haughty power.\*

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\* Marshall (Vol. 1, page 109) intimates that Wilkinson was jealous of Clark, and rejoiced over his failure. "General Wilkinson," (says the historian) "who was at the Falls of the Ohio, wrote to a friend in Fayette 'that the sun of General Clark's military glory had set, never more to rise.' There was much meaning in this sentence, which those who had fathomed Wilkinson knew how to interpret." Without attributing to Wilkinson the secret ambition of supplanting Clark, this prediction might very naturally have been founded on what he knew of Clark's habits and of his loss of public confidence thereby. The subjoined is an extract from a letter written at the time by some one in Kentucky to a friend in Philadelphia. The extract was forwarded from Philadelphia to the Governor of Virginia, but at what time it was received by that functionary does not appear, nor is the name of the writer given. All the circumstances, however, point unerringly to Wilkinson as the author. The following is a copy of the extract as it is given in the Virginia State Papers, viz:

[EXTRACTED FROM A LETTER from a gentleman in Kentucky to his friend in Philadelphia, December 12, 1786.]

"Clark is playing Hell. He is raising a Regiment of his own, and has 140 men stationed at Opot, already now under the command of Dalton. Seized on a Spanish Boat with 20,000 Dollars, or rather seized three stores at Opot worth this sum, and the Boat which brought them up. J. R. Jones, Commissary General, gets a large share of the plunder, and has his family at Opot. Platt comes in for snacks. He brought the Baggage and a thousand pounds of small furs to the Falls the day I left it. Plunder-all — means to go to Congress to get the Regiment put upon the establishment. He is the 3rd Captain. The taxes, he tells his associates, are necessary to bear his expenses; but he don't return. I laid a plan to get the whole seized and secured for the own-

The suggestions of Mr. Jay in the fall of 1786, (referred to on a former page), that Congress would rescind its instructions and permit him to propose to the Spanish a treaty for twenty-five years, during which time the United States would agree to forbear their right to the navigation of the Mississippi below their own boundaries, were made to Congress while that body was in secret session. Notwithstanding this fact, the proceedings thereon soon became partially known; and by the artful and designing these suggestions of the Secretary for Foreign Affairs were easily magnified into an actual treaty to the same effect. That the seizure of the property of Spanish merchants by Clark was not simply a measure to obtain necessities for his irregular troops, but was directly prompted by exaggerated rumors concerning Mr. Jay's suggestions to Congress, and was absolutely designed as a hostile movement against Spain, can scarcely be doubted.

On the 4th of December, 1786, Thomas Green, then a citizen of Louisville, wrote to the Governor of Georgia, (which State claimed a western boundary extending to the Mississippi and embracing a part of the territory occupied and held by Spain above the 31st degree of latitude)—declaring the public sentiment to be that the *treaty* with Spain was “unjust, cruel and oppressive;” that it would “subjugate” the western people to a “worse slavery” than any to which Great Britain had ever presumed to subject the people of any part of her dominions; that the minds of the people of Kentucky were “very much exasperated against *both Spaniards and Congress*,” that the

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ers, and Bullett and Anderson will execute it. Clark is eternally drunk, and yet full of design. I told him he would be hanged. He laughed and said he could take refuge among the Indians. A stroke is meditated against St. Louis and the Natchez.”

Similar information was written by a gentleman in North Carolina to a member of Congress from that State. These statements might be disregarded, as not vouched for by responsible names, were they not unfortunately fully sustained by statements made under oath and reduced to writing by Christopher Greenup, as well as by the statements formally made to the Governor by sixteen of the most prominent men then in Kentucky.

Spanish property at Vincennes and in the Illinois had been seized by the troops of Clark "in retaliation for the many offenses" of Spaniards; that General Clark, "together with many other gentlemen of merit," had "engaged to raise troops sufficient" and to "go with me to the Natchez to take possession," provided the Governor of Georgia would give them countenance and the lands claimed by that State; that General Clark and the others would be "ready to proceed down the river on the shortest notice," and were merely awaiting a favorable answer to set out; and for further particulars referred him to the bearer, William Wells.\* To a committee appointed at Danville (evidently by members of the convention who were there) to receive from him such information as he might choose to give, Clark afterwards admitted the seizure of the property of the Spanish traders, but alleged that it was for the sole purpose of subsisting the troops he had enlisted at Vincennes without authority; asserted that he never *saw* the letter of Thomas Green, had no purpose to molest the Spaniards at Natchez; and understood Green's object to be to establish a settlement at or near the mouth of the Yazoo, under the authority of the State of Georgia. The committee reported this as General Clark's statement, but, as no settlement could have been made at the mouth of the Yazoo at that time, under the authority of the State of Georgia, without certain hostilities with the Spanish, they evidently attached but little value to his assertion of pacific intent, which was contradicted by his every act. It was but natural for them to believe, and the unbiased reader will find it difficult not to believe with them, that General Clark knew the contents of Green's letter, when they had the evidence before them that he had given a written bond to contribute an equal amount with the writer thereof to pay Wells for his trouble in conveying that letter to Georgia.†

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\*See Appendix A for letter in full.

†LOUISVILLE, December 4, 1786.

JEFFERSON COUNTY, SS.

Whereas, William Wells is now employed by Colonel Thomas

About the same time that Green's letter was dispatched to the Governor of Georgia copies of an inflammatory and incendiary production, apparently by the same author, was circulated with an air of secrecy among many of the settlements in the west, and particularly in Sevier's insurrectionary would-be State of Frankland—Tennessee—whence one of them was forwarded to the Governor of Virginia. It branded the alleged treaty with Spain as a "grievance not to be borne;" that the acts which drove the colonies into the Revolution "were not so barefaced and intolerable;" that to subject their shipments down the river beyond our own territory to the Spanish laws was "an insult to our understanding;" that "twenty thousand troops could be raised west of the Allegheny and Apalachian mountains" to resist; that "we have taken all the goods belonging to the Spanish merchants at Vincennes and the Illinois;" that "preparations are now making here (Louisville) to drive the Spaniards from their settlements at the mouth of the Mississippi;" that in case the hostile expedition against Louisiana "was not countenanced," and those engaged therein "succored (if need be) by the United States," "our *allegiance will be thrown off*," and some other power applied to. Great Britain stands ready, with open arms, to receive and support us. They have already offered to open their *resources for our supplies*.\* While it is not probable that the sentiments of the writer or writers of those letters were generally shared

Green and others to go to Augusta, in the State of Georgia, on public business, and it being uncertain whether he will be paid for his journey out of the public treasury: should he not be, on his return, we, the subscribers, do jointly and severally, for value received, promise to pay him, on demand, the several sums that are affixed to our names, as witness our hands:

Thomas Green, . . . .	£10 00	James Huling, . . . .	£1 00
John Williams, . . . .	1 00	David Morgan, . . . .	1 00
George R. Clark, . . . .	10 00	John Montgomery, . . . .	1 00
Lawrence Muse, . . . .	3 00	Ebenezer S. Platt, . . . .	1 00
Richard Brashears, . . . .	5 00	Robert Elliott, . . . .	10
James Patton, . . . .	3 00	Thomas Stribling, . . . .	1 00

SECRET JOURNAL OF CONGRESS, IV, 318.

\*See Appendix B.



or countenanced by the people in the west, it would be idle to deny that among them were many disappointed and turbulent adventurers, who were disaffected towards Virginia as well as towards Congress, who did indorse these views, who were eager to join in the proposed movement, or in any other which might have afforded to their restless ambitious occupation and a promise of wealth, and who fully expected to be led by Clark.

When the time arrived for the meeting of the convention which had been authorized by the Virginia Assembly to be held at Danville, in September, 1786, and to which Wilkinson had been elected under the circumstances which have been stated, it was found that so many of the members were absent on the expeditions of Clark and of Logan against the Indians of the Wabash and of Mad river, that a quorum could not be assembled. To keep the body alive those present met and adjourned from day to day until January, when a quorum at last attended which proceeded to business. A number of the members were in Danville in December, when Wells passed through and exhibited Thomas Green's letter to the Governor of Georgia, as well as other papers; besides the members a number of gentlemen were in Danville, then the seat of the district court, on legal business. Copies were made of the papers exhibited by Wells, which were sent to the Governor of Virginia inclosed with the subjoined letter, by the gentlemen whose names are attached. Some of those gentlemen were members of the convention. Some resided in Danville and others practiced law. Others were there on business. No other equal number of men in the west at that time were of greater prominence or possessed greater influence.\*

DANVILLE, December 22, 1786.

*To His Excellency the Governor of Virginia:*

SIR—Whatever general impropriety there may be in a few private individuals addressing your Excellency, on subjects of public nature, we can not resist those impulses of duty and affection which prompt us

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\*Colonel Thomas Marshall and John Brown were members of the convention of 1786.



to lay before the Honorable Board at which you preside, a state of certain unwarrantable transactions, which we are apprehensive may, without the reasonable interposition of the legislature, deeply affect the dignity, honor and interest of the Commonwealth.

The testimonials which accompany this, will give your Excellency a general idea of the outrage which has been committed at Post St. Vincennes, of the illicit views of Mr. Green and his accomplices, and the negotiation, which has taken place, between General Clark and the Wabash Indians.

We beg leave to add, that we have reason to believe, property has been plundered to a very considerable amount, and that it has been generally appropriated to private purposes.

We are fearful that Green will find no difficulty in levying auxillaries in the titular State of Frankland, and the settlements on Cumberland; in the meantime, attempts are daily practiced to augment the banditti at St. Vincennes, by delusive promises of lands, bounty and clothing from the officers appointed by General Clark.

We beg leave to suggest, to the serious consideration of your Excellency, the necessity of carrying into effect, the treaty proposed in April; for we fear, that the savages when assembled, if they are not amused by a treaty, or kept in awe by a military force at St. Vincennes, will form combinations among themselves, hostile to this country, and before they disperse, may turn their arms against our scattered settlements, in such force as to overwhelm them.

To the superior wisdom and the paternal care of the heads of the Commonwealth, we take the liberty of submitting, the matters, herein as mentioned, in full confidence, that every necessary measure, will be immediately adopted, and have the honor to be with every sentiment of respect, your Excellency's most obedient,

JAMES WILKINSON.

BENJ. POPE.

J. BROWN.

CALEB WALLACE.

JOHN CRAIG.

CHRISTO. GREENUP.

T. MARSHALL.

GEORGE MUTER.

HARY INNES.

EDMUND LYNE.

RICHARD C. ANDERSON.

RICHARD TAYLOR.

JAMES GARRARD.

CHARLES EWING.

JOHN LOGAN.

JOHN EDWARDS.

This letter was accompanied by an affidavit, taken before Christopher Greenup and given by one Neeves, proving the manner of the seizure of the property in question, and the subsequent sale of many of the articles. It is noteworthy that it was signed by Colonel Richard C. Anderson, who shortly after married General Clark's sister; by Colonel Richard Taylor, the father of the president; and by Benjamin Pope, who were neighbors of, and

friendly to, Clark, who had opportunities of knowing the facts in the case, and who would not have put their names to such a statement without indubitable evidence of its truth. At the same time another letter was written to Governor Randolph, which asserted that the treaty at the mouth of the Miami had effected no "salutary purpose," and attributed the failure to the alleged ancient prejudices entertained against all Virginians by General Richard Butler and Parsons, two of the commissioners; implored the governor that, in case any treaty should be made with the Indians of the Wabash, in pursuance of the arrangement proposed by Clark, he would exert his influence to have the commissioners appointed from Kentucky, and recommending General James Wilkinson, Colonel Richard Clough Anderson and Isaac Shelby as "persons well qualified for the purpose and against whom no exception can be taken;" which recommendation was immediately followed by this paragraph: "We lament that the *unfortunate habits* to which General Clark is *addicted*, obliges us to observe that we consider him *utterly unqualified for business of any kind*." This letter was signed by T. Marshall, Edmund Lyne, Richard Taylor, J. Brown, Hary Innes, George Muter, Caleb Wallace, John Craig, Benj. Pope and Charles Ewing.\* These letters show why it was, and to whose representations it was due, that General Clark never thereafter had any public employment from Virginia.

On the receipt of those letters and papers, the state council of Virginia, on the 28th of February, 1787, advised that the letters and papers be transmitted to the Virginia delegates in Congress, to be laid before that body; that General Clark be notified of the disavowal of his acts and authority in the enlisting of troops at Vincennes; that the executive declare their displeasure at his conduct in seizing the property of Spanish merchants, and

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\* A copy of the entire letter from the original among the Virginia archives was made by Wm. Wirt Henry and forwarded to the writer at his request.

that it should be disclaimed in a special proclamation; that a copy of the order of the council be sent to the delegates in Congress, in order that the Spanish minister might be made acquainted with their action; and that the "attorney-general be consulted on the documents aforesaid, and be requested to take himself, or call upon the attorney-general of Kentucky, as the case may require, to take such steps as may subject to punishment all persons guilty in the premises." Thereupon Governor Edmund Randolph (who had succeeded Patrick Henry) issued his proclamation in accordance with this advice.\*

Mr. Madison, on the part of the Virginia delegation in Congress, laid before that body this action of the Executive with the accompanying papers, on the 28th of March, 1787.† The next day the delegation made the same com-

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\* The following copy of the original manuscript in the executive office at Richmond, Va., was obtained by the writer through the courtesy of Mr. Wm. Wirt Henry, viz:

Virginia, to-wit:

BY HIS EXCELLENCY EDMUND RANDOLPH, ESQUIRE, GOVERNOR OF THE COMMONWEALTH.

A PROCLAMATION.

Whereas, it has been represented to the Executive that George Rogers Clark, Esquire, after having under the colour of an authority wrongfully supposed to be derived from them, recruited a number of men for the support of the post of St. Vincennes, hath moreover seized the property of certain subjects of his Catholic majesty to a considerable amount.

In order therefore that the honor of this Commonwealth may not sustain an injury from a belief that the act above mentioned has in any manner received the public sanction, I do hereby declare, with the advice of the Council of the State, that the said violence was unknown to the Executive until a few days past, and is now solemnly disavowed, and that the attorney-general has been instructed to take every step allowed by law for bringing to punishment all persons who may be culpable in the premises.

Given under my hand and the seal of the Commonwealth this twenty-eighth day of February, in the year of our Lord one thousand seven hundred and eighty-seven.

[SEAL.]

Signed: EDM. RANDOLPH.

†In his note of the course of the delegation in placing the action of General Randolph before Congress, Mr. Madison referred to the "in-

munication to Don Gardoqui, the Spanish minister.\* On the 24th of April following, General Henry Knox, the Secretary of War, was directed by Congress to take immediate and efficient measures "for dispossessing a body

*ceudary* efforts on foot in the western country against the Spaniards." [Madison Papers, Vol. L., page 598.]

\*In the Madison Papers there is an interesting account of this interview between the Virginia delegation, at which, Mr. Madison states, "a free conversation" was had. The Delegates endeavored to impress the minister with the opinion that the "concerted occlusion" of the Mississippi would produce in the western people an "unfriendly temper," "both against Spain and the United States," Clark's conduct being cited as an illustration; and that this would probably have the effect "of throwing them into the arms of Great Britain." Numerous arguments were urged upon the minister why it was against the interest of Spain, as well as of the United States, that the navigation of the Mississippi should be closed to the western people. In response, Gardoqui affirmed that "Spain would never accede to the claim of the United States to navigate that river," and urged that, "as a result" of what the Delegates had said, "Congress could enter into no treaty at all." "He intimated," says Mr. Madison, "with a *jocular air*, the possibility of the western people becoming Spanish subjects; and, with a *serious* one, that such an idea had been brought forward to the King of Spain by some person connected with the western country, *but that his majesty's dignity and character could never countenance it.*" It will be observed that this was *prior* to the instructions given by the Spanish Court to Gardoqui, as the result of Wilkinson's intrigue with Miro, to do all in his power to promote the severance of the west from the Union; and that, while apprising the Virginia Delegates that such an idea had been "brought forward to the King of Spain by some person connected with the western country," the minister repudiated the thought as one dishonorable to his sovereign. Yet it is upon Mr. Madison's account of this interview, and upon his account of a conversation of a similar tenor between the minister and Mr. Bingham and himself, that Colonel John Mason Brown bases his assertion, that Gardoqui "had quite clearly broached a proposition that Kentucky should be abandoned to Spain;" and that "both Madison and Monroe had conversations of similar import with Gardoqui," to the conference between the Spanish minister and John Brown, in which Gardoqui, as stated by Colonel Brown, "*suggested* that the western country should secede from the Union and put itself under the sovereignty of Spain." [Frankfort Centennial Address, page 14.] Colonel Brown refers to the pages in the Madison Papers, which contain the accounts of those interviews, but, as is his custom when making erroneous statements, he is careful not to quote Mr. Madison's language, which does not justify Colonel Brown's version. [Madison Papers, Vol. II., pages 590 to 594, and 599 to 602.]

of men who had, in a lawless and unauthorized manner, taken possession of Post Vincennes in defiance of the proclamation and authority of the United States.”\*

The action of the sixteen conspicuous Kentuckians who addressed the Governor of Virginia on the subject of Clark's conduct, which was as proper as it was prompt; the eminently wise advice of the Executive Council, in consonance with the wishes and suggestions of the Kentuckians; the moderate action of Governor Randolph; and the decisive steps of Congress in consequence of the information they had imparted and of this advice and action, fortunately prevented the precipitation of hostilities in which the United States would have been confronted by the combined armies of France and Spain, bound together by a family compact.

In February of 1787, during the absence of General Logan in Virginia, † a band of Indians from Chickamauga perpetrated several murders in Lincoln county, among them that of a man named Luttrell. Colonel John Logan, (a younger brother of General Logan) who was second in command in Lincoln, hastily gathered a considerable party, struck the trail of the murderers, followed it into Tennessee, captured the horses that had been stolen, and slew a number of the depredators. He then struck the trail of another band of Indians, followed it into the Cherokee country, killed seven of the Indians and wounded others, and captured their horses and a large lot of game and furs. The last mentioned band was a party of Cherokees returning to their homes from a hunting expedition, who claimed to be peaceful, and who were protected by the treaty of Hopewell, which had been made with that

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\*On the 8th of the same month, Mr. Madison wrote to Governor Randolph, suggesting, if it could be done under no other provision, that Clark should be proceeded against under the “act of the last session (of the Virginia Assembly) concerning treason and *other offenses* committed without the Commonwealth.” [Madison Papers, Vol. II., page 630.]

† He had gone to Richmond to settle the accounts of his expedition against the Mad river Shawanese.

tribe. The attack upon them was asserted to have been a mistake or accident; and then was palliated on the ground that two of the horses captured from them had been stolen in Lincoln county not long before, one of which belonged to Hary Innes. [*Letters of Ben. Logan, Hary Innes, Arthur Campbell, and Joseph Martin, in Virginia State Papers.*] The greatest excitement at once spread throughout the Indian country. Retaliations by the Indians of course followed. In fact a general outbreak, not only by the Cherokees, but by other warlike tribes of the southern Indians, was with the utmost difficulty prevented. About the same time other forays were made upon Ohio and Indiana savages, by Robert Todd, Colonel Oldham and others, and these northern Indians also were included in treaties recently concluded. Colonel Joseph Martin, the Indian agent in Tennessee, Colonel Arthur Campbell, who commanded the militia in South-western Virginia, and the agents elsewhere, laid the complaints of the Cherokees and other Indians before Governor Randolph, who, in consequence, addressed a letter to Hary Innes, directing him as the attorney-general of the district, "to institute the proper legal inquiries for indicating the infractions of the peace" by "the *late* hostilities committed against the Indians,"—meaning thereby the raids of Col. John Logan, Robert Todd, and other similar unauthorized expeditions of recent occurrence.\* This letter, however found Mr. Innes in a very different state of mind from that in which he had joined in the protests against the illicit schemes of Green and the violent conduct of Clark at

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\* The following is the letter in full, viz:

*Richmond, May 1, 1787.*

SIR:—We have reason to believe that the late hostilities committed on the Indians, have caused their resentments. It is the duty of government to prevent and punish, if possible, all unjust violences. I beg leave, therefore, to urge you to institute the proper legal inquiries for indicating the infractions of the peace.

I am, sir, your most obedient servant,

EDM. RANDOLPH.

MR. HARY INNES,  
*Attorney-General, Kentucky.*

Vincennes. Certainly he had not up to that time publicly advocated, and it may well be doubted if he had even contemplated, the schemes which his response to Governor Randolph's communication shows that he meditated when that response was made. That response was in many ways remarkable, but in nothing more than as a revelation of the motives by which Mr. Innes, holding office under Virginia, was animated in the transactions of the near future. By pleading their vagueness, he evaded compliance with the directions of the governor.

For the information of that functionary he enumerated the several minor raids to which he knew the governor's letter referred. The situation was summed up by the assertion that "The Indians have been very troublesome on our frontiers, and still continue to molest us." This was stated to prepare the way for and to justify *this*: "From which circumstance I am decidedly of opinion that *this western country will, in a few years, Revolt from the Union, and endeavor to erect an Independent Government*; for under the present system, we can not exert our strength, neither does Congress seem disposed to protect us, for we are informed that those very troops which Congress directed the several states to raise for the defense of the western country are disbanded. I have just dropped this hint to your Excellency for reflection; if some step is not taken for protection, a little time will prove the truth of the opinion." The letter concludes thus: "I have been requested by the Attorney-General for the Eastern District to carry into effect such measures as should appear to be necessary for punishing General Clark and others for their conduct at Vincennes last fall, and make report to him. This direction, I perceive to be authorized by the order of the Council of the 28th of February, whereby the Attorney-General is directed to call upon the attorney of Kentucky, etc. The honor and dignity of this district call upon me to disavow such a power, and that it is the Executive alone who are to call upon me in cases of this nature, and to them alone am I to make report. I shall be always happy to receive the counsel and



advice of the Attorney-General of the Eastern District, but never can acknowledge him as my superior." \*

\* The following is the letter in full, as published in the Virginia State Papers, and as compared with the original for the writer, viz :

HARY INNES TO HIS EXCELLENCY, EDMUND RANDOLPH.

Kentucky, July 21st.] *Sir*: Your Excellency's letter, of the 1st of May, was delivered to me on the 6th inst., and after reflecting on the contents, I feel myself constrained to ask of the Executive in what capacity they view me, because, from the tone of your letter it would be construed that I was vested with some executive powers. Your letter directs me to institute the proper legal inquiries for indicating the infractions of the peace. How I am to proceed on that business from so vague a direction, I know not. In my official capacity I can not do it; in a private capacity, it would render me odious. But from whom I am to inquire, or against whom your Excellency wishes a prosecution to be instituted, your Excellency's letter is silent.

If your Excellency calls upon me in a private capacity, I shall be ever ready and willing to give you such information, as far as may come to my knowledge, of any matter in which the weal of the state may be interested, and shall now give you the information on the subject which your letter refers to, viz: Colonel John Logan's excursion in February last and some others.

Indians had made their appearance upon our south-eastern frontiers at several different times in the fall and winter. Some of our hunters had been attacked, and early in February one of our citizens killed at his own house. This induced Colonel John Logan, the then commanding officer of Lincoln, to raise his corps to range on the waters of the Cumberland, and to rendezvous at or near the place where the person had been killed, which was on the branch of Green river. Within a few miles of the place of rendezvous Colonel Logan came upon the trail of the Indians, who, it was supposed, had committed the murder. He followed and overtook them, killed seven, and got possession of the horses and skins they had along, among which was a valuable mare of mine and horse belonging to a Mr. Blaine, of Lincoln, also a rifle gun, which was well known to belong to a person who was murdered in October in the wilderness, on his journey to this district. Judge from these facts of the innocence of the Cherokees.

Since the excursion of Colonel Logan, one hath been made by some volunteers from Fayette and Bourbon, under the command of Colonel Robert Todd, to the Scioto, in consequence of an information received from the Shawanese of the hostile conduct of a small tribe, said to be Cherokees, who had settled on Paint creek. Upon this occasion three were killed and seven taken, who have since made their escape.

Last fall an excursion was made to the Saline by some volunteers from Nelson, under Captain Hardin, who fell in with some Indians, three or four of whom he killed, and put the others to flight. Another



The Attorney-General for the Eastern District at the time was the younger brother of Hary Innes,—the gallant soldier, the stainless patriot, the gifted orator, Colonel James Innes.

Hary Innes, when he wrote this letter, was of mature years, and had had large experience in public affairs. Certainly such a letter was not written without the gravest consideration by its author. Assuredly he did not make the prediction that the country of which he was an influential citizen would soon "Revolt from the Union," when neither he nor any of his acquaintances contemplated a step so important! Beyond peradventure, the action so confidently predicted had been discussed in his presence and by his friends, and among them had so considerable a

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hath been made from Jefferson the last of May, under Major Oldham, upon the waters of the Wabash, but nothing was done. The Indians have been very troublesome on our frontiers, and still continue to molest us, from which circumstance I am decidedly of opinion that this western country will, in a few years, Revolt from the Union and endeavor to erect an Independent Government; for, under the present system, we can not exert our strength, neither does Congress seem disposed to protect us, for we are informed that those very troops which Congress directed the several states to raise for the defense of the western country are disbanded. I have just dropped this hint to your Excellency for matter of reflection; if some step is not taken for protection, a little time will prove the truth of the opinion. Before I close my letter, my duty to support the dignity of this district compels me to remonstrate against a late order of Council. I have been requested by the Attorney General for the Eastern District to carry into effect such measures as should appear to be necessary for punishing General Clark and others for their conduct at Vincennes last fall, and make report to him.

This direction, I perceive, to be authorized by the order of Council, of the 28th of February, whereby the Attorney-General is directed to call upon the Attorney General of Kentucky, etc.

The honor of the dignity of this district call upon me to disavow such a power, and that it is the Executive alone who are to call upon me in cases of this nature, and to them alone am I to make a report.

I shall always be happy to receive the counsel and advice of the Attorney General of the Eastern District, but never can acknowledge him as my superior.

I have the honor to be your Excellency's most obedient servant,

HARY INNES.

following that they felt sure of success in the movement. The letter is not a mere friendly note of information and warning to the Governor. It is an argument for, and an attempted justification of, the predicted "Revolt from the Union," which the writer hoped, not less than he believed, would soon be made as he announced, and which he, a law officer of Virginia, was prepared to advocate and maintain. He did not oppose, but favored it. The whole trend of his conduct during the ensuing months was to no other end.

That this was his deliberate purpose is made absolutely certain by a peculiar incident, to the nature of which the attention of the reader is now expressly called: Nineteen years after this letter was written by Hary Innes—in 1806—when he was Judge of the Federal District Court of Kentucky, he, together with General James Wilkinson, Judge Sebastian and Honorable John Brown, were charged in editorials and communications in a newspaper called the *Western World*, with having been implicated in an intrigue with Spain to erect Kentucky into an Independent State, to then separate the State so erected from the Federal Union, and to form an alliance with Spain, for the ostensible purpose of obtaining the freedom of the navigation of the Mississippi. The charge was bitterly denied by Innes and his friends, and was denounced as a vile calumny, and as the emanation of personal malice, having no foundation in truth. It was alleged in his behalf, as well as in that of Wilkinson, Sebastian and Brown, that they were in favor of separating Kentucky from Virginia, and of erecting the district into an independent state, but that the separation they urged was from Virginia only, and not from the Union, which, it was asserted, was never for a moment contemplated by any of them. The ablest of the writers in their defense was William Littell, a lawyer of considerable literary ability, then living in Frankfort. At the solicitation of John Brown, and on the promise of a liberal compensation for his labor, Littell was induced, in the fall of 1806, to publish a pamphlet in defense of these men, the information contained in which was furnished to

him by John Brown and Hary Innes; the papers in the Appendix of which were prepared and furnished to him by Hary Innes; for writing which he was paid by John Brown, Hary Innes and Thomas Todd;\* the printing of which was paid for by Hary Innes, John Brown, Thomas Todd and Caleb Wallace; which was circulated by them; the statements in which were made in their interest, and were by them communicated to Littell and vouched for to the public, to whose confidence and sympathy this appeal was made in their behalf; and for the accuracy, sincerity and integrity of which they were as responsible as if their names had been signed to its every statement and to the copy of every document. This pamphlet was entitled "A Narrative of Political Transactions in Kentucky, by Wm. Littell." It dwells at length upon the alleged grievances Kentucky had sustained at the hands of Virginia and Congress.

In the Appendix, marked "No. X.," was published

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\*In the suit for libel brought by Hary Innes, against Humphrey Marshall, Littell was made a witness by Marshall, and gave his deposition on the 10th of November, 1812. He deposed "that he received the documents forming the Appendix of that book late in the fall of 1806, and that he received them from Hary Innes, the plaintiff in this cause;" that several months after he had published articles in the *Palladium* in answer to the attacks made upon Innes, Brown & Co., in the *Western World*, "Mr. John Brown called on this deponent and told him, 'we (not mentioning any names,) have concluded to have a pamphlet published, containing a number of documents and animadversions on them, and, as we are pleased with your style, we would wish you to do it, or words to that import;' that upon his suggesting a want of time, Brown said, 'we mean to make you a liberal compensation,' that he undertook the work, was 'referred to Mr. Innes for the documents, received them, and wrote the book with all practicable expedition;' when called on to state his charge for his labor, he did so; was paid \$50 by Innes, and that he 'received the residue of the compensation from Mr. John Brown and Colonel Thomas Todd, as far as he knows and believes. Mr. Brown he knows did pay him, and either Mr. Brown or Mr. Innes, he does not remember which, paid him some money in the name of or in behalf of Colonel Todd.'" The original deposition from which these extracts are taken is among the records of the Mercer Circuit Court. Wm. Hunter, the printer, testified that he was paid for publishing the pamphlet by Hary Innes, John Brown, Caleb Wallace and Thomas Todd.

what purported to have been a *true* and *faithful copy* of the letter written by Innes to Governor Randolph, which pretended copy was furnished to Littel by Judge Innes himself, to be laid before the public. But the pamphlet shows upon its own face that from the *copy* placed before the *people*, the words, "REVOLT FROM THE UNION," which were in the letter written to the Governor, were *stricken out*; and that the sentence was changed to read thus: "From which circumstance I am decidedly of opinion that this western country will, in a few years, act for themselves, and erect an independent government," etc. And when Humphrey Marshall, the historian, who had only the version published by Littel, charged and demonstrated that, by the logic of the circumstances under which the words were used, they could only mean a government *independent of the Union*, he was answered by Innes and his friends that this construction originated in the malice of the accuser, and was slanderous and false; that the words meant simply a state government independent of Virginia, but forming a part of the Union, a separation from which, they asserted, had never for an instant been considered by Innes. But the reader has the advantage of knowing what Innes actually did write to Governor Randolph,—which Humphrey Marshall did not know,—and from his own written words possesses indubitable proof that no injustice was done to Innes by Humphrey Marshall's animadversions upon this letter. By *suppressing* these words in the manner shown, Innes manifested his own painful consciousness of their unerring import, as well as of the conclusions that would inevitably be reached by all who should ascertain that he had used them. The necessity which drove Judge Innes to the deceit involved in this suppression of his own written words, and to the substitution therefor of others, which he and his friends denied possessed the meaning which was directly conveyed by those he had really written, was most urgent. Colonel John Mason Brown, the self-constituted champion of Judge Innes, in a note at the bottom of page 83 of his "Political Beginnings," refers to the page in the Virginia

State Papers, on which this letter, as it was written by Innes to Governor Randolph, is published, which shows that he had read the correct copy of that letter. He quoted from that letter the words which immediately follow the suppressed and altered passage, but carefully suppressed the significant words by which the quoted passage was preceded, and which Innes himself had suppressed in the pretended copy published by Littell. It is thus made apparent that Colonel Brown was aware of the discrepancy between the letter as it was actually written by Innes and the false copy thereof published by Littell, and was conscious that the line of defense which he had adopted for Innes, in 1890, prohibited the publication of what Innes himself had suppressed, in 1806.\*

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\*The subjoined is a copy of the "copy" of the letter as published in Littell's "*Narrative*" by Judge Innes. By noting the discrepancy between the original and the pretended copy, the reader will easily detect the nature of the artifice practiced by Judge Innes and his motive therefor.

KENTUCKY, July 21, 1789.

SIR—Your excellency's letter of the 1st of May, delivered to me on the 6th inst., and after reflecting on the contents I feel myself constrained to ask of the executive in what capacity they view me? Because from the tenor of your letter it would be construed that I was vested with some executive powers; your letter directs me to institute the proper legal inquiries for indicating the infractions of the peace.

In my official capacity I can not do it; in a private capacity it would render me odious. But of whom I am to inquire, or against whom your excellency wishes a prosecution to be instituted, your letter is silent. If your excellency calls upon me in a private capacity, I shall be ever ready and willing to give you such information as far as may come to my knowledge, of any matter in which the weal of the State may be interested; and shall now give you the information on the subject which your letter refers to, viz.: Colonel John Logan's excursion in February last and some others. Indians had made their appearance upon our south-eastern frontiers at several different times in the fall and winter; some of our hunters had been attacked, and early in February one of our citizens killed at his own house; this induced Colonel John Logan, the then commanding officer of Lincoln, to raise his corps to range on the waters of Cumberland, and to rendezvous at or near the place where the person had been killed, which was on the branch of Green river. Within a few miles of the place of rendezvous, Colonel Logan came upon the trail of the Indians, who it was supposed had committed the murder. He followed and overtook them, killed several

The omission of those words, pregnant with meaning and containing the very kernel of the issue in controversy, and the rearrangement of the sentence by Innes, were not accidental, nor was the suppression without a distinct design which is too obvious to require to be stated. The undeniable fact which stands out, that Judge Innes, who was as amiable in his social relations as his official station was dignified, did this thing is too painful to be dwelt upon; the nature of the act is one upon which every reader will make his own comment; nor does the writer care to inquire further into the motive for the deliberate connivance at this suppression by the critical essayist, who has so wantonly resurrected these old controversies from the grave in which they had slumbered for more than half a century. The incident here related

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and got possession of the skins and horses they had along, among which was a valuable mare of mine and a horse belonging to a Mr. Blain, of Lincoln; also, a rifle gun which was well known to belong to a person who was murdered in the wilderness in October last on his journey to this district. Judge from these facts of the innocence of the Cherokees. Since the excursion by Colonel Logan, one hath been made by some volunteers from Fayette and Bourbon under the command of Colonel Robert Todd, to the Scioto, in consequence of information received from the Shawnees of the hostile conduct of a small tribe said to be Cherokees, who had settled on Paint creek. Upon this occasion three were killed and seven taken, who have since made their escape. Last fall an excursion was made to the Saline by some volunteers from Nelson, under Captain Hardin, who fell in with some Indians, three or four of whom he killed, and the others put to flight.

Another hath been made from Jefferson in June last under Major Oldham, upon the waters of the Wabash. Nothing was done. Indians have been very troublesome on our frontiers, and still continue to molest us; from which circumstance I am decidedly of opinion that this western country will, in a few years, act for themselves and erect an independent government; for under the present system we can not exert our strength. Neither does Congress seem disposed to protect us, for we are informed that those very troops which Congress directed the several States to raise for the defense of the western country are disbanded. I have just dropped this hint to your excellency for matter of reflection. If some step is not taken for our protection a little time will prove the truth of the opinion.

I have the honor to be, etc.

HARY INNES.

GOVERNOR RANDOLPH.

is even less important as declaring the real sentiments and proclivities of Judge Innes when the letter was written, than it is significant of his capabilities under pressure, and typical of all the methods employed in the defense of John Brown, Judge Innes, Wilkinson and Sebastian, from Littell's "Political Transactions," in 1806, to Colonel Brown's "Political Beginnings," in 1890.

## CHAPTER VI.

BROWN AND INNES, AFTER GIVING GOVERNOR RANDOLPH THE INFORMATION WHICH INDUCED THE CENSURE OF CLARK, CONCEAL THAT FACT FROM THE PEOPLE AND FALSELY CONTEND THAT HE WAS CENSURED BECAUSE HE CONDUCTED AN EXPEDITION AGAINST THE INDIANS—FALSE PRETENSE THAT BEN LOGAN WAS ALSO CENSURED FOR THE SAME REASON—COLONEL J. M. BROWN DISCOVERS THE TRICK OF HIS GRANDFATHER AND IMITATES IT—HIS EFFORTS TO CAST A SLUR UPON COLONEL MARSHALL.

Another incident immediately connected with what has been stated in the foregoing, and of like essential nature, will further aid the reader in forming a just appreciation of the character of the defense made for these men, by themselves, and by their most recent and most hardy champion; and will in a measure prepare him for the developments hereafter to be made in these pages.

After stating the efforts made by Governor Henry in the spring of 1786 to secure immediate action by Congress for an offensive movement against the Indians, the Littell pamphlet, in Chapter III, proceeds: "The obstinate inattention of Congress to these representations induced the executive of Virginia to give some very general directions to the county lieutenants of the district. Under these instructions two expeditions were carried on against the Indians north of the Ohio; one under the command of General Clark against the Wabash tribes, the other by Colonel Benjamin Logan against the Shawanese." A little further on in the same chapter, referring to the spring of 1787, occurs this passage:

"In the spring of this year, the Indians infested and seemed likely to overrun the whole country. Great depredations were committed in almost every quarter. Congress though repeatedly urged by the executive of Virginia, pertinaciously refused to afford the people any protection, and without assigning any reason for the measure, disbanded the troops which had apparently been raised for that purpose. And the executive of Virginia *now censured the officers who projected and conducted the*



two expeditions mentioned in the last (this) chapter as conducted by General Clark and Colonel Logan, in consequence of orders received from the executive."

The "Narrative," continuing to dwell upon the "distressing situation" of the country, then recounts the conduct of the Cherokees; the raid of Colonel John Logan; the complaint of the Indian agent (Colonel Joseph Martin,); the instruction of the governor to Innes to "institute the proper legal inquiries for indicating the infraction of the *treaty*," (a misquotation); and the reply of Innes. It was plainly the intention to convey by these statements the idea, that General Clark and Benjamin Logan were censured by the executive of Virginia *for* "projecting and conducting," and *because they had* so "projected and conducted," the two expeditions in question; and such would indubitably be the impression received by any one who reads these statements and who is uninformed as to the real facts, with which all the parties who paid for the writing and printing of Littell's pamphlet were fully acquainted. These facts were then, and are now: That no censure was ever passed by the executive of Virginia\* upon General Clark for having "projected and conducted" his expedition against the Wabash Indians; that the charges brought against him for misconduct which occasioned the failure of that expedition were preferred by his own officers, but no censure was cast upon him by the executive on that account; that the censure which the executive did pass upon General Clark related exclusively to his conduct at Vincennes, subsequent to the abandonment of the expedition, not so much for assuming to recruit men and commission officers without legal authority, but particularly for his seizure upon the property of Spanish merchants there and in the Illinois, in violation of the laws of nations, and in derogation of the dignity of the state; and that this censure was induced by the representations of, and proof furnished by, Hary Innes, John Brown and Caleb Wallace, (among others)—the very men who

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\* Patrick Henry had ceased to be Governor, and was succeeded by Edmund Randolph, who was the executive alluded to.

cited this action as a manifestation of the ill will of the governor to Kentucky and as one of the acts which, they alleged, drove her people to exasperation. That they might by this complaint against Virginia conciliate the favor of the numerous and influential relatives of Clark, these men did not scruple to conceal from them, as well as from the people to whose confidence and generous sympathy they appealed, that the censure passed upon him was produced by their own letter. That the imposture might succeed, and that the people might be persuaded that Clark was humiliated because he had defended them against the Indians, Judge Innes, (one of whose omissions from his letter to Randolph, in the pretended copy thereof he published in Littel, has already been noted,) found it equally necessary to omit, and did omit, from the same alleged copy the passage in the original, in which he declined to obey the directions to prosecute Clark "for his conduct at Vincennes,"—the publication of which would have disclosed the true ground for the censure, and thus have defeated the object of the statement. The dead Logan could not oppose to the assertion that *he* had been censured by the governor that scornful denial it would have met had he been alive. But as it affected *him*, the statement was even more destitute of truth than it was as relating to Clark. That Judge Innes himself did not then construe the letter of the governor (of *May 1, 1787*) concerning the "*late hostilities* committed on the Indians," to refer to the *authorized* expeditions in the previous *September* and *October*, but only to the minor unauthorized excursions which had *recently* been made by John Logan, Todd and others, is apparent from his own reply; while the proclamation of the governor and the order of the council, disavowing the conduct of Clark at Vincennes, on their own face show that neither had application to Benjamin Logan, nor to his expedition, nor to any act in which he had participated or for which he was in any way responsible.

Aside from the pamphlet issued by Innes and Brown, in 1806, and the work of Colonel John Mason Brown in

1890, no book ever published contains an intimation upon which this injurious statement concerning Logan could have been based. There is not a suggestion of such a thing in the *Virginia State Papers*. A careful search among the archives at Richmond failed to discover a single line giving it the shadow of countenance.\* He was not included in the terms of, nor in any honest implication that can be drawn from, the censure visited upon Clark, nor was any reproach cast upon him by any governor throughout his long, useful and honorable military career. The statement in Littell was wholly an invention, the motive for which is perceptible. The purpose of the "Narrative" was, by the most gross exaggerations, to make it appear that Congress and Virginia were distinctly hostile to Kentucky, and that this hostility was so flagitiously manifested as would have justified almost any act of which the people, in their alleged desperation, might have been guilty. As a flagrant illustration of this hostility, the pretense was made that Clark was censured for projecting and conducting his expedition against the Wabash Indians. But an incredulous reader might have asked, if *this* was the cause of the censure, why was it solely visited upon Clark who marched to the Wabash and then marched back again, without meeting an Indian; while Logan, who burned eight of the largest Shawnee towns, ravaged their corn-fields, killed hundreds of their cattle and more than a score of their warriors, was left unrebuked? The coupling of Logan with Clark, as having been included in and aggrieved by the censure pronounced upon the latter, was deemed necessary in anticipation of such inconvenient inquiries.

Colonel John Mason Brown, however, was not beset by the temptations which harassed his grandfather and Innes when so hardly pressed by the *Western World*. He rested under no sore necessity other than that imposed upon him by the task which he had of his own accord assumed. Yet, in his "*Political Beginnings*" occurs this remarkable passage:

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\* Made by Colonel Raleigh Colsten at my instance.

"Clark had been striving with desperate valor and tenacity of purpose to hold Vincennes and Illinois.\* Logan had completely seconded him, hurrying back from the Wabash† to make an attack on the Mad river towns of the Shawnees. Their incredible toil, patriotic sacrifice of time and estate, and all their splendid services extorted nothing better than a chilling rebuke. No sooner had Patrick Henry entered the office of governor (in December, 1786) than the evil days began for George Rogers Clark and the policy he represented. The new governor of Virginia (Edmund Randolph) was quickly apprised by private letters‡ from Kentucky, that, "General George R. Clark had undertaken, without authority, to raise recruits, nominate officers and impress provisions in the District of Kentucky for the defense of the Post of Vincennes, and had for that purpose also seized the property of Spanish subjects contrary to the law of nations.§ Governor Randolph gave all the offense and irritation possible in proceeding upon this *apparently anonymous* information.¶ He wrote to Hary Innes, Attorney General for the district of Kentucky, adverting in very general terms to the complaints that had reached him, and instructed him in vague lan-

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\* Clark had as much valor and tenacity as any one, but it did not require a great deal of either to hold Vincennes, which was not at that time threatened. And as for the Illinois, he had no men there at all except the squads he sent to seize upon the property of unoffending Spanish traders, whom they effectually cleaned out of all they had that was valuable. (See Harmer's letters in the *St. Clair Papers*.)

†The proceedings of the council of field officers held at the camp near Clarksville, on the 13th of September, 1786, show that Logan *then* and *there* left Clark to return to Kentucky to prepare for his expedition against the Shawnees. Logan was not nearer than Clarksville to the Wabash, whither Colonel Brown found it necessary to transport him, to connect him with Clark and to include him in the censure passed upon the latter.

‡The *private letters* were those signed by John Brown, Hary Innes, Wilkinson, Wallace and others, which will be found on former pages of this book.

§Here Colonel Brown referred to a note at the bottom of page 322, Vol. 4, Virginia Calendar State Papers. This note relates to the letters noted just above, but does not either fully or accurately state their contents, and gives the name of Thomas Marshall only as the author. Exactly why the names of the others were not given, or why that of Colonel Marshall was selected, out of the sixteen, to be given as the author, is not by me fully understood, unless it may have been that his was the first name signed to the paper. The note in the State Papers is misleading.

¶What Colonel Brown styles "*this apparently anonymous information*" was the letter signed by his own grandfather, by Hary Innes, Caleb Wallace, James Wilkinson, Christopher Greenup, George Muter, Richard Taylor, Thomas Marshall and eight other prominent citizens. But

guage "to institute the proper legal inquiries for indicating the infractions of the peace."\* The answer of Innes was characteristically frank. He showed how there was not enough of distinct direction in the governor's letter to warrant any official procedure. But he improved the occasion to warn the governor that such persistent neglect (both Federal and on the part of Virginia,) to protect the Kentucky frontiers, coupled with complaints† against the men, who, being thus neglected, protected themselves, and followed by official prosecutions of leaders like Clark and Logan‡ [Benjamin] would almost certainly drive the people to desperation, and, he added, for the executive's information: "I have just dropped the hint to your excellency for matter of reflection; if some step is not taken for protection a little time will prove the truth of the opinion."§ Clark wisely refused to be provoked by the instructions that came from the Attorney General of Virginia directing Innes to institute a criminal prosecution. Logan quietly retired to his farm. . . ."

Benjamin Logan died in 1802, in blissful ignorance that he had ever been subjected to the "chilling rebuke" from Governor Randolph, which Colonel Brown, following in the footsteps of his grandfather and Innes, incorrectly states that the hero received.¶ It is true that Logan "quietly retired to his farm after a successful campaign," but only as it was equally true of all other militia officers of that day, when they were not engaged in active service. But that he did this in consequence of any "chilling rebuke" which had been administered to him, as Colonel Brown intended to have it believed, is wholly untrue. He remained quietly on his farm but a short time. The month

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the gallant Colonel, on a later page, imputes it to Colonel Marshall alone.

\* The letter of the governor, as already stated, related exclusively to the "late hostilities committed against the Indians," by Colonel John Logan, Todd, *et. al.*, and had no reference to Clark.

† The complaints against Clark were preferred by Innes himself, as well as by Brown, Wallace and others.

‡ No prosecution of Ben. Logan was ever proposed. The threat that Kentucky would "Revolt from the Union" was not made in connection with the directions concerning Clark.

§ Here Colonel Brown discreetly fails to mention that the mode in which the exasperation would vent itself, in Innes' opinion, was by a "Revolt from the Union."

¶ A sketch of General Logan and some account of his descendants was published in "*Historic Families of Kentucky*," by the present writer.

of January, 1787,\* found him in Richmond, where he was treated with respectful consideration by the governor and council, with whom he settled the accounts of his expedition, which the General Assembly ordered to be paid. Orders were given that the arms and ammunition which the Assembly had voted for the defense of Kentucky should be delivered to *him*, on the Dick's river. (See bond of John Jouitt, Joseph Crockett and Richard Terrill, State Papers, Vol. IX., page 226.) He continued to occupy the position of the first officer in command in Kentucky, and to honorably discharge its duties, until the change in the form of the Federal Government in 1789. By Governor Randolph he was on several occasions called upon to perform important services, and was invariably addressed with courtesy, and there was manifested towards him that confidence which his high character was so well calculated to inspire. The records show that it was upon him his fellow citizens relied to pacify the Cherokees. It was he who held the council at Limestone with the Shawnees, where he restored to them the wives and son of the aged Moluntha, whom the savage McGary had murdered; he had given them a refuge in his own home. His active influence in all military affairs in the district continued to be in every direction exerted.†

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\* The General Assembly had previously taken action for the defense of the district, such as was satisfactory to the Kentucky representatives in that body. One of these representatives, Colonel Joseph Crockett, in a letter to the governor, bearing date November 27, 1786, gave this testimony: "Since he has had the honor of a seat in the legislature he had observed with pleasure that the Executive was doing all in their power for the welfare and safety of the western frontier." [State Papers, vol. IV., page 185.]

† General Logan was not, however, altogether free from small annoyances. One of these, as it appears from his letter to Governor Randolph, [State Papers, vol. IV., p. 267] was the "private recommendation" which he had been informed and believed had been made by Innes and Muter, "for four gentlemen to be commissioned by Congress to transact Indian affairs in the district of Kentucky," which would have supplanted Logan. The letter, which is full of good sense and bad spelling, breathes a lofty contempt for the men who, as the author alleged, while engaged in this work privately, were to his face continually sounding his praises. The

The letter of Hary Innes in reply to Governor Randolph fully informed Colonel Brown that the directions of the governor had no application, and that Innes did not understand them to apply, to Benjamin Logan nor to his expedition. Even if Colonel Brown never saw the proceedings of the council or the proclamation of the governor conveying the censure, he knew that it did not apply to General Logan or to any of his acts, and that no directions had ever been issued to Innes to institute proceedings against him. The letter which elicited the action of the council and governor against Clark, with the names of all its sixteen conspicuous signers, was published in *Dillon's History of Indiana*. The *Western Annals* made known that, albeit he afterwards evaded the direction to prosecute Clark, Judge Innes was one of those who gave the governor the information which induced that direction. *Perrin's History of Kentucky* names Wilkinson as one of the signers of that letter, and mentions the number and respectability of the others. If Colonel Brown can be presumed to have been really ignorant, that what he describes as "*apparently anonymous information*," was a letter signed by his own grandfather and Innes, and by their friends Wallace and Wilkinson, and others, then his historical reading was neither so thorough nor so extensive as his admirers would persuade people to believe. If he was misled by the note in the *State Papers*, which he cited and from which he quoted; if he really supposed that the letter which was signed by his grandfather and fifteen others, proceeded from Thomas Marshall alone, he nevertheless certainly knew, that his statement that Randolph had proceeded "*upon apparently anonymous information*," was exactly the reverse of correct. Whatever his motive in this, it assuredly was not one of delicate consideration for the sensibilities of the descendants of Colonel Thomas Mar-

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brave man wrote: "But notwithstanding these *little twists* can be made by Individuals and Gentlemen of Destinktion, let their Reasons Either be self Intrust or predjudice, it shall have no effect on me to neglect any Matter of Buisness wherein the Intrust of Kentucky is so much depending."



shall, for he was the person whom (a little farther on) he intended to stigmatize as "an envious correspondent."

But, if he knew that the information was vouched for by the names of sixteen of the most prominent men in the district and was true, and yet, (seeking to pander to the pride of Clark's relatives,) had an object in making it appear that not only was the governor's action harsh and unjust, but that it was induced by idle and "envious" reports entitled to no credence; and if he knew that his grandfather and Hary Innes were two of the men who furnished this information, and yet, to propitiate the favor of Clark's relatives for the flimsy defense of John Brown he had undertaken, wished to conceal from them and the public his participation in the responsibility for the representations on which the censure was based; \*—in that

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\* Referring to the "Ordinance of 1787," for the government of the north-western territory, and providing for the future creation of states out of the territory ceded by Virginia to the United States, on page 85 of "*Political Beginnings*," Colonel Brown says: "It (Congress) *boldly* declared that the most western of these 'new states' 'should extend from the Wabash to the Mississippi.' The line of Clark's conquest was assumed as the national boundary toward the west. The benefit of all his labors were appropriated, while even yet an envious correspondent was reporting to General Randolph that Vincennes was obstinately reinforced and held against Spaniard and Indian by Clark without authority." In order to point out the person whom he described as "an envious correspondent," Colonel Brown then cited the note at the bottom of page 322 of the *Virginia State Papers* (Vol. IV) which names Thomas Marshall alone as the author of the letter in question, which was signed by Brown, Innes, their friend Wilkinson and others. While the reader will appreciate the fine enthusiasm of Colonel Brown, he will be at a loss to understand the peculiar quality of that *boldness* in Congress, which was involved in the declaration that the most western of the new states to be erected out of the north-western territory should extend from the Wabash to the Mississippi, *where the treaty with Great Britain four years before had fixed our western boundary*. The rhetorical effect of this brilliant passage is so very fine that one involuntarily regrets that its historical value should be impaired by the irrepressible facts, that the Mississippi had been assumed and acknowledged as our western boundary years before; that there was profound peace between the United States and Spain; that there was not a Spanish soldier within hundreds of miles of Vincennes; that the only Spaniards there, or in the Illinois, were the unoffending traders whom Clark despoiled of their goods and



case, every one can easily comprehend his motive for suppressing the names of those who wrote the letter, and describing it as "*apparently anonymous*;" which on any other hypothesis is wholly unaccountable. And if he was struck with admiration at the adroitness with which his grandfather and Innes concealed themselves, while representing to a credulous people that Clark and Ben. Logan were censured for protecting them against the Indians; and if he deemed their exploit worthy of his own emulation, it will sufficiently explain the otherwise incomprehensible character of his "Political Beginnings."

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furs; and that, after the treaty of 1783 with Great Britain, the only efforts of Spain to extend her frontiers east of the Mississippi were by means of the overtures subsequently made by Miro to Wilkinson, and by Gardoqui to John Brown, and by de Carondelet to Innes and Sebastian. After admiring this eloquent passage in the "Political Beginnings," the reader will not be surprised to find that Col. Brown, warming with his subject, and referring to the Vincennes episode, stated, on page 123 of that work, that "Clark and his Kentucky troops had already seized Spanish posts and confiscated Spanish munitions;"—as if Vincennes had been a Spanish fort, or as though the beaver skins of which Clark despoiled the traders, had been loaded! And why Colonel Marshall should have been "envious" of the gallant and unhappy General Clark, it would have sorely taxed Colonel Brown's ingenuity to have explained.

## CHAPTER VII.

THE CONVENTION OF 1786—THE GENERAL ASSEMBLY, FOR GOOD REASONS, POSTPONES THE DATE OF THE SEPARATION—POLITICIANS SEEK TO INFLUENCE THE PEOPLE; BUT THE CONVENTION LOYALLY ACCEPTS THE SITUATION—THE NEWS OF THE "JAY PROJECT" KNOWN IN KENTUCKY IN THE FALL OF 1786—PROOF THAT IT WAS KNOWN TO BROWN, INNES AND OTHERS CERTAINLY AS EARLY AS DECEMBER, 1786—THE VIRGINIA ASSEMBLY PASSES RESOLUTIONS RELATING THERETO IN NOVEMBER, 1786—THE ACTION OF THE GENERAL ASSEMBLY KNOWN IN KENTUCKY IN JANUARY, 1787—BROWN, INNES AND SEBASTIAN KNEW OF IT BEFORE THEIR CIRCULAR OF MARCH, 1787—JOHN MASON BROWN'S MISREPRESENTATIONS EXPOSED.

It has been stated that so many of the delegates chosen to the convention of September, 1786, were engaged in the expeditions of Clark and Logan, that the few who assembled in Danville at the appointed time, finding themselves without a quorum, in order to keep the body legally alive met and adjourned from day to day until a sufficient number were present for the transaction of business; and that this did not occur until January, 1787. In the meantime, the reasons why the terms of separation fixed in the act of the Assembly could not possibly be complied with, on account of the absence of the members, with a respectful request that those terms should be modified to meet the situation, were embodied in a memorial, which was forwarded to John Marshall, for presentation to the Assembly, of which he was a member.\* This was done by Mr.

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\*Members had been elected to the House at the same time that delegates to the convention were chosen. These members were: John Rogers, Joseph Crockett and John Fowler, from Fayette; Richard Terrill and John Campbell, from Jefferson; John Jouitt, Andrew Hynes, James Henderson and George Jackson, from other counties. The names given are all which are preserved. All of these attended the assembly. John Brown was a member of the Senate, but he did not attend a single day during the session, remaining in Danville attending the convention, of which he was a member. The reason why the business was entrusted to Marshall, notwithstanding the presence of these gentlemen, is obvious.

Marshall, who failed to secure the alterations desired. Instead, the Assembly, on the 10th of January, 1787, enacted that members of another convention\* should be elected in the ensuing August, to meet in Danville, on the third Monday in September, to whom should be submitted the question of separation; in case of affirmative action, the authority of Virginia was to cease not later than the first day of January, 1789; *provided* that, *prior* to the fourth day of July, 1788, Congress should *assent* to the erection of the State and provide for her admission into the Union. This delay was predicated upon the fact that, so much valuable time having been lost by the absence of the members of the convention, there was not sufficient remaining for the convention, and the people† of the district, to comply with the prescribed conditions wisely fixed by the original act of separation, in time to enable

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\*Henning's Statutes, Vol. XII., page 240.

†The following extract from a letter of John Marshall to his father, Colonel Thomas Marshall, who was a member of the convention, gives the sound reasons for the delay, which were generally accepted as conclusive by the convention, to which the contents of the letter were made known, viz.:

"The act is not precisely such as I wished it to be, nor is it conformable to the resolutions of the committee before whom I appeared, but it may, perhaps, be formed on cautious principles; on principles more to the peace and harmony of the district than had my wishes (which were to enable the present convention to decide the question finally) prevailed. Those, sir, who introduced and passed the law, reasoned that the power delegated to the convention by the people, to decide upon a separation, was limited in point of time to a decision to be made in such time that Congress might consider and determine on the admission of your State into the Union, by the first day of June, 1787, that an existence for twelve months was given for other purposes pointed out in the law; that as you are very much divided among yourselves, and there does not appear to be in the minority a disposition to submit with temper to the decision of the majority, and the measures of the convention in consequence of a defect in the original law, would be liable to some objection. The most safe, unexceptionable and accommodating plan is to pass a law in which the defects of the former act may be corrected, and which shall enable the present convention either to sit till their term has expired, or to call immediately a new convention, to the decisions of which the disappointed can make no objection."

Congress to assent and provide for the admission of the new State *prior* to the first day of June, 1787, as stipulated in the original act of separation passed by the assembly. In evidence of the good will which inspired this legislation, the assembly reiterated its sincere purpose that the district should become a State under the original conditions "whenever the good people thereof so determine *and the United States in Congress shall thereof approve.*" Convinced of the justice of the reasoning on which this delay was based, John Marshall yielded to the new act a reluctant assent, and in a letter which was immediately forwarded to Kentucky, stated the argument which made its wisdom apparent.\* [Littell.]

Late in January, 1787, a quorum of members attended the convention, by whom it was immediately resolved, "That it was expedient and the will of the good people of the district, that the same should become a state separate from and independent of Virginia, upon the terms of the act." Scarcely had the convention time to get down to its other work, when information was received of the changes made in the law, which rendered nugatory all that had been done and made necessary a repetition of all these preliminary forms. † The keen sense of disappointment experienced by the delegates to the convention was

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\*The writer has seen only the extracts from this letter, which were published in *Littell*, who states that it was addressed to Colonel Thomas Marshall. John Mason Brown reproduces those extracts from and credits them to Littell, without stating to whom the letter was addressed. [*Political Beginnings*, pages 77 and 78.]

† Humphrey Marshall, Vol. I, page 254, states that this information was received by the president of the convention, Colonel Samuel McDowell, "in a letter from a member of the legislature;" but does not name the member. On the same page, he states that John Marshall "by letter, stated the reasons which influenced the general assembly in passing the new law;" but he does not state to whom this letter was addressed. The statements of Littell and Marshall are easily reconciled on the presumption that the letter to Colonel McDowell was written by some member of the assembly other than John Marshall, probably by one of the Kentucky members; and that the letter of John Marshall, in which he explained the motives of the assembly, and referred to its action concerning Mr. Jay's suggestion, was to his father, Colonel Thomas Marshall.

natural. It was inevitable that among them men were found who seized upon so favorable an occasion to throw odium upon the assembly for an act rendered necessary by occurrences which that body did not control; and who endeavored to arouse and inflame the people, not only against Virginia, but against the Union as well. Still, the convention adjourned without an outbreak more serious than ebullitions of passion on the part of some of the politicians; by the great body of the people the situation was accepted with becoming moderation. Their conduct under all environments and incitements was a splendid illustration of the law-abiding spirit, the patient endurance of grievances for which a peaceful remedy may be had, the steady courage amidst difficulties, and the persistent purpose under all discouragements, which, with the unfaltering faith taught by the Calvinistic philosophy, are the distinguishing characteristics of the Scotch-Irish race, which was then so largely dominant in the public affairs of the district. But now another appeal to passion was made, another and a greater temptation was offered, only to be resisted and overcome.

The communication made by Mr. Jay to Congress on the 3d of September, 1786, when summoned before that body to explain the obstacles which had prevented the conclusion of a treaty with Spain; and the suggestions he then made, that it would be expedient to rescind the instructions previously given him by Congress, in order that he might propose to the Spanish minister a treaty limited to twenty or thirty years, during which time the United States should "*forbear*" to navigate the *Mississippi below their southern boundary*, were made known in the west in the fall of the same year. This is shown by the letter of Thomas Green, dated December 4, 1786, prior to which time the intelligence had been generally circulated throughout the west. The fact was known in Virginia as early as October, and on the 17th of November, 1786, the representatives from Kentucky,\* and West Virginia, and a number

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\* Kentucky then had from ten to fourteen delegates in the assembly.

of officers who had served in the revolution and were interested in lands in Kentucky, addressed to the assembly a memorial remonstrating against the proposition. It will scarcely be denied that they had the interest of the west as much at heart as any of the inhabitants thereof. Yet they resorted to no inflammatory appeals to passion, nor called a convention, but made known their grievance and stated their wishes to the legislature of their state, as the constitutional organ through which an appeal should be made to Congress. The house of delegates, accordingly, passed on the 29th of November, and the Senate on the 7th of December, 1786, resolutions, the first of which states that the action was based upon the remonstrance of "sundry inhabitants of the western country."\* These resolutions, which were of the most decisive character, condemned the proposition in the strongest terms, and instructed the Virginia delegates in Congress *never* to accede to "Jay's project." That the exaggerated reports representing that Congress had actually concluded a treaty with Spain *ceding* to that power the navigation of the Mississippi for thirty years, were prevalent throughout Kentucky and the west in the fall and early winter of 1786, is proved by the inflammatory circular, dated December 4, 1786, which was distributed and as well as by the letter of Thomas Green to the governor of Georgia; and that those reports were known to John Brown, Hary Innes, and George Muter at least as early as December 22, 1786, is incontestibly established by their signatures to

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\*The Journal of the Senate shows that the affirmative vote by which these resolutions were passed was of Senators Alexander St. Clair, William Hubbard, Matthew Anderson, Robert Rutherford, John Syme, Thomas Roane, John P. Duvall, Nicholas Cabell and Charles Lynch. Nicholas Cabell was the conspicuous senator in promoting their passage, and was appointed to communicate the action of the Senate to the house of delegates. He was one of the sons of Dr. William Cabell, and the ancestor of Mrs. Helm Bruce, of Louisville. The senators who voted in the negative were Colonel Burwell Bassett, Turner Southall, Isaac Avery and Thomas Lee. Colonel Bassett's wife was the sister of Mrs. Washington, and they were the ancestors of the wife of Governor Buckner. The sister of Colonel Bassett married Ben. Harrison, of Berkeley, and was the mother of President William H. Harrison.

the letter of that date complaining of Clark's conduct at Vincennes and of Green's illicit designs.

The letter of a member of the General Assembly which conveyed to the President of the convention at Danville the intelligence of the new act of separation, was written after the passage of that act (January 10, 1787), and yet reached Danville late in the same month. On the 11th of January, 1787, the General Assembly adjourned, and the Kentucky members soon thereafter returned to the district.\* If it can be presumed that out of all the members present from Kentucky in the assembly, at whose particular instance the resolutions were passed, there was not one who deemed the subject of the navigation of the Mississippi of sufficient importance to induce him to transmit to his constituents information of the action of that body thereon; if it can be credited that even after their return to their homes, those representatives failed to make known the action Virginia had already taken;—still it is certain, that the letter of John Marshall, which stated the reasons that animated the assembly in postponing the time for the separation of the district, and *which also made known the action of the* assembly in reference to the "Jay project," was received in January, 1787, before the adjournment of the convention, and that the contents were made known to its members. While it is probable that the great mass of the people were ignorant that Virginia had, through her assembly, authoritatively spoken (there was no public press in the district at the time), yet the facts were well known to all the prominent men assembled in Danville at the time, among whom were John Brown, Hary Innes, George Muter, who were residents of the place, and

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\*The trip from Richmond to Kentucky usually occupied about three weeks. The gallant John Jouitt, one of the Kentucky members at this time, was delayed by the preparations necessary for conveying the large quantity of arms and ammunition contributed by Virginia for the defense of Kentucky, from Redstone Old Fort, on the Monongahela, to the mouth of Limestone (Maysville); still he reached Kentucky in March, as shown by his letter.



Benjamin Sebastian, who attended the session of the district court.\*

The letter of John Marshall giving information of the emphatic and spirited action of Virginia, which was received during the sitting of the convention, was calculated, as it was intended, to soothe any irritation that might have been previously excited.† But, a few weeks after

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\*The resolutions of 1786, referred to, were as follows, viz.:

1. "*Resolved*, unanimously, That a copy of the memorial of sundry inhabitants of the western country, be transmitted to the delegates representing this State in Congress.

2. "*Resolved*, unanimously, That the common right of navigating the Mississippi, and of communicating with other nations through that channel, be considered as the bountiful gift of nature to the United States, as proprietors of the territories watered by said river and its eastern branches.

3. "*Resolved*, unanimously, That the confederacy, having been formed on the broad basis of equal rights in every part thereof, and confided to the protection and guardianship of the whole; a sacrifice of the rights of any one part, to the supposed, or real interest of another part, would be a flagrant violation of justice and a direct contravention of the end for which the federal government was instituted, and an alarming innovation on the system of the Union.

4. "*Resolved*, therefore, unanimously, That the delegates representing this State in Congress, be instructed, in the most decided terms, to oppose any attempts that may be made in Congress, to barter or surrender to any nation whatever, the right of the United States to the free and common use of the river Mississippi; and to protest against the same as a dishonorable departure from that comprehensive and benevolent policy which constitutes the vital principle of the confederation; as provoking the just resentments and reproaches of our western brethren, whose essential rights and interests would be thereby sacrificed and sold; as destroying that confidence in the wisdom, justice and liberality of the federal councils, which is so necessary at this crisis, to a proper enlargement of their authority; and finally, as tending to undermine our repose, our prosperity, and our Union itself: and that the said delegates be further instructed to urge the proper negotiations with Spain for obtaining her concurrence in such regulations touching the mutual and common use of the said river, as may secure the permanent harmony and affection of the two nations, and such as the wise and generous policy of his Catholic majesty will perceive to be no less due to the interests of his own subjects than to the just and friendly views of the United States.

† The following is the extract from that letter published by Littell, and reproduced in "*Political Beginnings*," viz: "The negociation which has opened with Spain, for ceding the navigation of the Mississippi—a



the adjournment of the convention, an association of men styling themselves "a committee of correspondence in the western part of Pennsylvania," addressed to the people of Kentucky a circular, which contained this statement, viz :

"That John Jay, the American secretary for foreign affairs, had made a proposition to De Gardoqui, the Spanish minister, to cede the navigation of the Mississippi to Spain for twenty-five or thirty years ; in consideration of some commercial advantages, to be granted to the United States ; but such as the people of the western country could derive no profit from."

A meeting was thereupon held in Danville, and the following circular was addressed and distributed to the people, viz :

*"Circular Letter directed to the different Courts in the Western Country.*

KENTUCKY, DANVILLE, March 29, 1787.

"A respectable number of the inhabitants of the district, having met at this place, being greatly alarmed at the late proceedings of Congress, in proposing to cede to the Spanish court the navigation of the Mississippi river, for twenty-five or thirty years, have directed us to address the inhabitants on the western waters, and inform them of the measures which it is proper for the district to adopt.

"The inhabitants of the several counties in this district, will be requested to elect five members in each county, to meet in Danville on the first Monday of May, to take up the consideration of this project of Congress ; to prepare a spirited but decent remonstrance against the cession ; to appoint a committee of correspondence, and to communicate with one already established on the Monongahela, or any other that may be constituted ; to appoint delegates to meet representatives from the several districts on the western waters, in convention, should a convention be deemed necessary ; and to adopt such other measures as shall be most conducive to our happiness. As we conceive that all the inhabitants residing on the western waters are equally affected by this partial conduct of Congress, we doubt not but they will readily approve of our conduct, and cheerfully adopt a similar system, to prevent a measure which tends to almost a total destruction of the western country. This is a subject which requires no comment ; the injustice of the measure is glaring ; and as the inhabitants of this district wish to unite their efforts to oppose the cession of the navigation of the Mississippi, with those of their brethren residing on the western waters, we hope to

negotiation so dishonorable and injurious to America, so destructive of the natural rights of the western world—is *warmly opposed* in this country (Virginia), and for this purpose *the most pointed* instructions are given our delegates in Congress. I persuade myself that the negotiation *will terminate in securing instead of ceding that great point.*" [Littell's Appendix 8, page 21.]

see such an exertion made upon the important occasion, as may convince Congress that the inhabitants of the western country are united in the opposition and consider themselves entitled to all the privileges of freemen, and those blessings procured by the revolution, and will not tamely submit to an act of oppression which would tend to a deprivation of our just rights and privileges.

“ We are, gentlemen, with respect, your most obedient servants,

GEORGE MUTER,

HARRY INNES,

JOHN BROWN,

BENJAMIN SEBASTIAN.”

The attention of the reader will at once be arrested by these facts: First, that the statement made in the circular that the proposition in question had been made by *Congress to the Spanish minister* was untrue, and was not even warranted by the information the authors had received from the Pennsylvania committees, by whom it was only alleged that the proposition had been made to the Spanish minister by John Jay, our secretary for foreign affairs. Second, that the circular withheld from the people the important information which its authors had from John Marshall's letter, even if they did not have it from the Kentucky representatives in the Assembly, that Virginia had already acted on the subject in a manner the most prompt, emphatic and decided. [The want of mail facilities and of a public press, leaving the people in ignorance of public affairs, placed them much at the mercy of the designing and unscrupulous.] Third, that in addition to preparing a remonstrance against the proposed cession, appointing a committee of correspondence to communicate with that in Pennsylvania and with any other, and delegates to meet with delegates from other districts in the west in a convention; that, in addition to all this, the convention called by the circular was invited to “adopt such *other measures* as shall be most conducive to our happiness,” which certainly gave a very wide latitude to a self-constituted body, possessing no *legal* power whatever. With this exception the verbiage of the circular was unobjectionable. But, if only legal methods were contemplated, and if the right of united remonstrance and protest only was expected to be resorted to, it is difficult to conceive what result the authors of this circular hoped that the meeting it called

could accomplish by such means more effective than that which would be attained by the authoritative resolutions of the Virginia Assembly, which had been passed four months before, and of which they already had full knowledge. The people at large, who had no opportunity of knowing the real facts, and who were imposed upon by this circular, were greatly disturbed, as its authors intended they should be, and acted as they were requested to do. Delegates to the convention were elected from all the counties, and met in Danville in May, when the facts as to the real action of Congress, which was not stated in the circular, and as to that of the Assembly, which the circular had suppressed, were made known to all, and the exaggerations of the circular were corrected. After numerous propositions, calculated and designed to increase the fears and add to the excitement of the people had been offered by the authors of this circular, and by others, in the shape of remonstrances, and had been defeated, the convention, finding themselves completely anticipated by the action of the Assembly, and that there was nothing proper and legal to be done that was left for them to do, adjourned,\* without action of any kind. It was in June after the issuing of this circular and after this meeting, that General Wilkinson made his first *trading* venture to New Orleans; and it was in July that Hary Innes, one of the signers thereof, wrote to Governor Randolph that, in his opinion, "this western country will, in a few years, *Revolt* from the Union," which opinion and the declaration thereof, if it be conceded that they should not be associated with the circular and with the movement which it sought to inaugurate throughout the whole of the western country, assuredly does not render that circular and attempted movement the less significant.†

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\* Collins, vol. I., page 264.

† In his letter to Mr. Jefferson, March 19, 1787, [*Madison Papers*, vol. II., page 624,] Mr. Madison refers to this movement: "I have credible information that the people living on the western waters are already in great agitation and are taking measures for uniting their consultations. The ambition of individuals will quickly mix itself with the original motives

It did not suit the purpose of John Brown and Hary Innes to make known to the people through the pamphlet they induced Littell to write in 1806, that they had received information of Jay's proposition at least as early as December, 1786; so that fact, as well as their participation in the letter to Randolph, was carefully omitted from the "Political Transactions." And a statement was made of the communication received from the Pennsylvania committee in March, 1787, as if *that* was the first information which had been received in Kentucky of that proposition.

In the Appendix to the Political Transactions the resolutions passed by the Virginia assembly in 1806 (by the house on the 29th of November and by the senate on the 7th of December), were published, and the date of their passage was given as the 29th of November, 1786. And in the course of the "Narrative" it was stated that the convention called by the circular issued by Brown, Innes, Muter and Sebastian, and which met in Danville in May, 1787, adjourned without action, "*because they learned that the legislature of Virginia had entered into several resolutions, on the subject, expressed in strong language, and had instructed her delegates in Congress to oppose the cession;*"—as if *that* had been the *first* information received of those resolutions;—which may have been true of some of the delegates, but was utterly untrue as to Innes, Brown, Muter and Wilkinson, who had known of the fact from the letter of John Marshall received during the session of the convention in January. In Littell's Appendix was also published the second series of resolutions on the same subject which were passed by the Virginia house of delegates (they were never introduced into the senate) on the 12th of November, 1787, as if they had been

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of resentment and interest. Communication will gradually take place with their British neighbors. *They will be led to set up for themselves, to seize on the vacant lands, to entice immigrants by bounties and an exemption from Federal burdens, and in all respects play the part of Vermont, in a large theater. It is hinted to me that British partisans are already feeling the pulse of some of the western settlements.*"

the result of the circular of Innes, Brown & Co., and of the meeting in Danville in May of that year; and, in reproducing this second series, Littell gave the correct date of their passage—*November 12, 1787*.

On the 81st page of his "Political Beginnings," Colonel John Mason Brown reproduces the resolutions which were passed by the house of delegates *on the 12th of November, 1787*, crediting them to Littell, who gave that date as the time of their passage; but, in publishing these resolutions, he represents them to have been the resolutions which were passed by the house of delegates *on the 29th of November, 1786*, which resolutions were also published in Littell with their proper date. If this was not the most strange of all possible inadvertences, the only rational motive that can be conjectured for the omission of the resolutions really passed in 1786, and the substitution therefor of those which were passed in 1787, may be found in the fact, that the first of the series of 1786, which speaks of the remonstrance of "sundry inhabitants of the western country," shows at whose instance the action was taken, and disproves the claim which Colonel Brown makes on a subsequent page of his book, that the exclusive credit for obtaining this action was due to his grandfather. It has already been seen that his statement that the letter of John Marshall conveyed the first news of the Jay project Kentucky is untrue.\* The purpose of John Marshall's allusion to the subject in the letter referred to was evidently not to give news of "Jay's project" to the people of Kentucky, for it assumes as a fact what he knew to be true, that they had had that news months before his letter was written; but it was to give assurance of the warm opposition to the project which existed in the eastern part of Virginia, of the pointedness of the instructions to oppose it, which had been given to the Virginia delegates in Congress, and of Mr. Marshall's own conviction that the result of the negotiation would be the securing of that

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\* See letter of Thomas Green to the governor of Georgia, and that of John Brown, Innes, and others to Governor Randolph.

navigation for the west, instead of an abandonment thereof to Spain. Its natural tendency as well as its purpose was, not to create excitement and irritation, but to relieve fears that had been previously entertained.

But, not satisfied with his erroneous statement that this letter gave "*the first news*" of the project, Colonel Brown proceeded to ascribe the conduct of John Brown and Innes in issuing their circular to the alarm produced by that letter and the corroboration it received from other sources. On the 79th page, he says: "It ('the news thus sent to the west by John Marshall') greatly alarmed all who appreciated the vital importance to Kentucky and the people of an unobstructed navigation of the Mississippi. A meeting of citizens *at once* convened, and in their behalf a circular-letter was put forth over the signatures of George Muter, Harry Innes, John Brown and Benjamin Sebastian. It bore date 29th March, 1787." As this letter of John Marshall was received before the adjournment of the convention in January, several months *after* the "news of Jay's project" was prevalent all over Kentucky and Tennessee, and two months *before* the issuing of that circular, it is evident that the circular was not predicated upon nor caused by that letter, as Colonel Brown intimates, and that the excitement and apprehension which Innes and Brown did all in their power to create and increase, was not occasioned by any "news sent to the west by John Marshall." Colonel Brown goes on to say: "The circular attracted immediate and earnest attention. A conference was held at Danville in May (as the circular-letter suggested), but happily Virginia had *already* taken action that emphatically voiced the sentiments of the west." . . . Colonel Brown then tells us that the resolutions passed by Virginia on the 29th of November, 1786, which "were long delayed in reaching the western settlements," reassured the people of Kentucky. This is true, as it relates to many of the delegates in the May meeting and to the great body of the people. But the signers of that circular had no need of that reassurance. They knew that Virginia had "happily already

taken action ;" knew of the authoritative instructions the assembly had given to Virginia's delegates in Congress ;—knew it from the very letter which Colonel Brown (in his efforts to fasten upon John Marshall the responsibility for the bad disposition which gave birth to the circular) says gave them their "*first news*" of the project ! Why then did they ever issue the circular ? If a legal remonstrance was all they meditated, did they expect one from a meeting of the people of a district of Virginia, a meeting which possessed no legal power, would be more potential than that which had already gone forward from the constitutional authority of the whole state ? The explanation given in Madison's letter to Jefferson, which has been quoted, affords the only rational solution.

After having taken these strange liberties with the facts, Colonel Brown, warming with his subject, was encouraged to take yet greater liberties with his readers. The denial in the quotations made from the "*Political Beginnings*," that John Brown, Innes & Co. knew of "*Jay's project*" until John Marshall's letter was received ; and the further denial that they knew of the action happily taken by Virginia until after they had issued their circular of March 29, 1787 ;\* makes clear Colonel Brown's own consciousness of the unfavorable light in which the certainty that John Brown had knowledge of that action prior to the circular would place his grandfather. Still the temptation to claim for his own ancestor the exclusive credit of having been the principal factor in the defeat of

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\* There are in Kentucky and scattered throughout the west a large number of the descendants of the men who then represented Kentucky in the Virginia Assembly. They are modest people, unassuming and not given to boast of their ancestry. Besides, they feel that there was nothing in the conduct of those who went before them which needs explanation or demands a vindication. For that reason, perhaps, they would be the last persons in the world to claim for their ancestors a credit which did not belong to them, and to which others were entitled. To give them a chance the writer deems it proper to say, that the delegates from Kentucky who procured the passage of those resolutions were: Colonel John Campbell, Captain John Jouitt, James Henderson, Colonel Joseph Crockett, John Fowler, Richard Terrill, George Jackson, John Rogers and Andrew Hynes.



the "Jay project" was irresistible. So on the 121st page of the "Political Beginnings" he coolly assures the confiding public that "Brown, *representing* Kentucky as a Senator in the Virginia Assembly, *procured* from it the emphatic declaration of 26th (he meant the 29th of November, 1786, already mentioned);" and he then quotes one of the resolutions passed by the House of Delegates on the 12th of November, 1787. His language was intended to convey the impression that John Brown *was in the Senate* in November, 1786, when the resolutions of that date were passed, and that he had procured their passage. When it is necessary to magnify the importance of this very remarkable man, John Brown, his yet more remarkable grandson transports him from Danville, Kentucky, where he in fact was at the time,\* to Richmond, Virginia; fully acquaints him with all the details of "Jay's project" and represents him as *procuring* the passage by the Virginia Assembly on the 29th of November, 1786, of the resolutions condemning that project, with which, in fact, he had nothing whatever to do.† When it is desired to have it appear that the agitation fomented by Brown and Innes and their friend Sebastian, in the spring of 1787, was the effect of the letter of John Marshall, it is alleged that the "*first news*" of the Jay project reached Kentucky in that letter, which was not received until the last of January, 1787; although their signatures to the letter to Governor Randolph prove that Brown and Innes had received the news of that project in December, 1786, if not earlier. And to palliate the significant circular, it is pretended

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\* His signature to the letter to Governor Randolph, December 22, 1876, shows that he was *then* in Danville.

† On the 1st of November, 1786, the Sergeant-at-Arms of the Virginia Senate was ordered to take into custody a number of the absentees, among whom was John Brown, who did not attend during a single day of the session. Though he continued to be a member of the Senate, Mr. Brown did not take part in any of the deliberations of that body from the day he was excused from further attendance that session, in January, 1786, until he went on to secure his election to Congress in October, 1787. [See Journals of Virginia Senate.]



that no information that Virginia had already "happily acted" in November, 1786, was received until after the circular had been issued on the 29th of March, 1787; and this, notwithstanding that that information, according to the extract printed by Colonel Brown himself (page 78), was conveyed in the very letter of John Marshall which he says brought to Kentucky the "first news of 'Jay's project,'" and which was received two months before that circular was issued. As a "Comedy of Errors" the "Political Beginnings" is an admirable production.\*

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\* John Marshall was a member of the House of Delegates which passed the resolutions of that year. He and his father, Colonel Thomas Marshall, were both members of the House of Delegates of 1787, which passed the second series. The latter were never introduced into the Senate. The record shows that John Brown had no part in passing them. The following is a copy of that record from the original journal made for the writer by Colonel Raleigh Colston, viz:

MONDAY, November 12, 1787.

"The House then, according to the order of the day, resolved itself into a committee of the whole House on the State of the Commonwealth; and, after some time spent therein, Mr. Speaker resumed the Chair, and Mr. Thruston reported that the Committee had, according to order, again had the state of the Commonwealth under their consideration, and had come to several resolutions thereupon, which he read in his place, and afterward delivered in at the clerk's table, when the same were again severally twice read, and on the question put thereupon, agreed to by the House as followeth:

*Resolved, that it is the opinion of this committee,* That the free use and navigation of the western streams and rivers of this Commonwealth, and of the waters leading to the sea, do, of right, appertain to the citizens thereof, and ought to be considered as guaranteed to them by the laws of God and nature as well as compact.

*Resolved, that it is the opinion of this committee,* That every attempt in Congress, or elsewhere, to barter away such right, ought to be considered as subversive of justice, good faith, and the great foundations of moral rectitude, and particularly destructive of the principles which gave birth to the late resolution, as well as strongly repugnant to all confidence in the Federal Government, and destructive to its peace, safety, happiness and duration.

*Resolved, that it is the opinion of the committee,* That a committee ought to be appointed to prepare instructions to the delegates representing this State in Congress to the foregoing import, and to move that honorable body to pass an act acknowledging the rights of this State, and that it transcends their power to cede or suspend them; and desiring the said

Relieved by the absence of Wilkinson, who had gone to New Orleans, the people proceeded in August, 1787, without acrimonious discussion and without tumult, to elect delegates to the convention authorized by the new act of separation to meet in Danville in September of that year. The district had now been divided into seven counties, which chose the delegates in equal numbers—thirty-five in all. The list of the delegates is correctly given by Collins; Colonel Samuel McDowell again presided, and Thomas Todd was secretary. The convention met on the 17th of September, the day fixed by law. It was again quickly and unanimously resolved to be “expedient for the good people of the district, that it should be separated from the rest of the state *upon the terms and conditions* prescribed by law.” An address to Congress, couched in respectful language and requesting the admission into the Union of the new state to be erected, under the name of Kentucky, was adopted. The time when the authority of Virginia should end was fixed as the 31st of December, 1788. Provision was made for the election of members to a convention authorized to frame a constitution for the new state. And the members of the Assembly from the district were requested to use their efforts with that body to have an inhabitant of the district chosen as one of the Virginia delegation to Congress. The convention, having fully and satisfactorily discharged all the duties devolved on its members, then adjourned, after a brief session which had been as peaceable as the elections at which those members were chosen had been orderly. Wilkinson was in New Orleans. John Brown was not a delegate. Whether he had gone to Virginia before the meeting of the convention, in order to resume his long vacant seat in the State Senate, as intimated by Marshall; or whether

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delegates to lay before the General Assembly such transactions as have taken place respecting the cession of the western navigation.

Ordered, That Messrs. Thruston, Henry, Nicholas, Fisher, Harrison, Meriwether, Smith, Dawson, Monroe, Lawson, Corbin and Mason be appointed a committee to prepare instructions pursuant to the said resolutions.

he delayed his journey until after the convention had formulated the request that a member of Congress should be chosen from the district, and then went on to secure that position for himself, can not now be determined. (The Assembly met October 15th, and Brown was in his seat October 23, 1787, on which day he was elected to Congress.) Judge Muter had drawn back from the precipice. And Sebastian and Innes, in the absence of Wilkinson and Brown, made no sign.

## CHAPTER VIII.

JAMES WILKINSON—LOOKS TO A SEPARATION FROM THE UNION, AND AN ALLIANCE WITH GREAT BRITAIN OR WITH SPAIN—IF HE FAILS WITH ONE, DETERMINES TO NEGOTIATE WITH THE OTHER—TWO STRINGS TO HIS BOW—HIS EXPEDITION TO NEW ORLEANS IN 1787—HIS ENGAGEMENT WITH MIRO AND PROMISE TO SEPARATE KENTUCKY FROM THE UNION AND TO SUBJECT HER PEOPLE TO SPAIN—THE TRUE CONSIDERATION FOR HIS EXCLUSIVE COMMERCIAL PRIVILEGE—THE UTTER SELFISHNESS OF WILKINSON IN THE NEGOTIATIONS—THE MISREPRESENTATIONS AND SUPPRESSIONS OF COLONEL JOHN MASON BROWN.

From his advent in Kentucky in 1784, as the active representative of a Philadelphia mercantile association, no man in the district exerted a more extended nor a more corrupting influence in its public affairs than General James Wilkinson. Slightly under the average height, his form was yet a model of symmetry and grace, and his manly and dignified carriage at once attracted the attention of every observer. If his brilliantly handsome face won instant admiration, his gracious manners no less pleased and invited confidence. While fitted by native talents to move in the most refined circles of American society, he yet possessed and exerted all the arts which secure the favor of the multitude and excite the enthusiastic admiration of the vulgar. His command of language enabled him with ease to give to his ideas a forceful expression, while his full and musical voice was pleasant to the auditor. With an ardent and mercurial temperament, the fire of which was easily communicated to others, his gesticulation was at once animated and studied. With these genuine qualities of an orator, he had all the tricks of a popular declaimer. As a writer he had precisely that order of talent which was most effective at the time and

with those to whom his literary effusions were addressed.\* Dealing largely in exaggeration, yet most skillful in suppressions and in muddying the waters, his defense of himself before the court-martials which tried him in 1808 and afterwards, was more adroit, and not less ingenuous than that made for his friend and coadjutor in intrigue, John Brown, in the "*Political Beginnings*." With real capacity for military command and love for the "pomp and circumstance of war," he was fertile in resources, invincible in energy, and courageous in battle. Constantly asserting the integrity of his own motives, and boasting of his own love of truth, as well as of glory, he was not slow to resent, by an appeal to the duello, if need were, any impeachment of his honor. And yet he was probably as utterly destitute of all real honor, as venal, as dishonest, and as faithless as any man that ever lived. His selfishness was supreme, and his self-indulgence boundless, while his knowledge of all that is mean and corrupt in mankind seemed intuitive. With an ambition that was at once vaulting and ever restless, and a vanity that was immeasurable, to gratify the one and to offer incense to the other, he did not scruple to pander to the vices of his fellows, to excite their cupidity, and to tempt them to treason. An insatiable craving for the adulation of the sycophantic impelled him to the most prodigal expenditures to support an immodest hospitality and a vainglorious state, to which his ruined fortune was inadequate; he plunged heavily into debt and was then careless of his obligations; and to the pecuniary losses his extravagance occasioned to others he was indifferent.

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\*Colonel John Mason Brown's estimate of Wilkinson's style as "turgid," differs widely from that expressed by his grandfather and Innes of the literary attainments and talents of the friend who so far outshone them. Of his memorial to the Spanish Intendant of Louisiana, Littell's "*Narrative*," which Brown and Innes adopted as their own defense, as it was also equally one of Wilkinson and Sebastain, says: "This memorial was much admired by the *literary* gentlemen present in the convention for its *dignified style*, the copious and comprehensive view which was taken of the subject, the *elegance of the composition*, and its peculiar adaptation to work upon the fears and avarice of the Spaniard."

The Maryland family from which James Wilkinson sprung was in every way respectable. To prepare him for the practice of medicine he was well educated. Preferring the career of arms opened to the aspiring by the Revolution, he entered the American service before he had attained his majority, and by activity, address, and really valuable services rose to the position of clothier general, with the rank of a Brigadier. His name figured more conspicuously than pleasantly in the scandals which ruined Conway, and left a taint upon the fame of Horatio Gates. His patrimonial estate, which was never large, having been entirely dissipated before he came to Kentucky, his avowed object in removing to the west was here to regain what he had squandered in the east. On arriving in Kentucky he immediately encouraged the production of tobacco, for which there could be no market except in Louisiana, or by the outlet of the Mississippi's mouth. A native of Maryland, he had none of that reverence and filial affection for Virginia which so many of her sons in the wilderness cherished; nor, as events demonstrated, was his love for the Union whose uniform he had worn strong enough to prevent his dishonorable descent to the position of a stipendiary of Spain in an intrigue for its dismemberment. It has been seen that the rejection of the temperate address to the General Assembly, which had been adopted by its predecessor, by the convention of August, 1785, as well as the substitution therefor of one breathing a different spirit, and of which he was the author, were induced by his influence; that the address to the people, of which he was also the author, which was adopted by the same convention, was well calculated to excite and inflame; and then, when the Assembly, instead of simply declaring and recognizing the independence and sovereignty of Kentucky, as his address had rather demanded than requested, made the separation of the district from Virginia and its erection into a state to depend upon the previous assent of Congress and its reception into the Union, he vehemently urged an immediate assumption of that independence and

sovereignty contrary to the law. When, in January, 1787, the Assembly postponed the time of the separation, because the time remaining was not sufficient for the action deemed necessary for obtaining the expression of the will of the people, and the subsequent consent of Congress, and the admission of the new state into the Union, by June 1, 1787, he was the most open and violent in his expressions of chagrin, in his denunciations of the Assembly, and in his expressions of contempt for Congress.

Having previously gathered all the tobacco, flour and bacon, he could buy with his own slender means,\* or with borrowed money, or on credit, and having shipped them on flat-boats to New Orleans, in June, 1787, he soon followed his cargoes. His own letter to Gardoqui, written some months later,† is witness that "having nothing to hope from the Union" he had, before starting upon this expedition, deliberately determined to seek the "*patronage*" of Spain as a means of relieving his impecuniosity, of *proposing* the schemes which were agreed upon with Miro; and, if they were rejected by the Spaniard, of then "opening a negotiation with Great Britain, which had already been active in the matter." Whether the agitations he had industriously fermented, and the revolutionary measures he had audaciously advocated in Kentucky, were designed as the mere preliminaries to prepare an easy way for success in the schemes in which he immediately engaged; and whether the subject had been discussed between Innes and others and Wilkinson when the letter to Randolph predicting an early "Revolt from the Union," was written, are less important inquiries than it is to ascertain what those schemes actually were in their inception and progress.

The scheme to separate the west from the rest of the United States, which was subsequently adopted by Spain,

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\* The statement of Colonel Brown that he had in the brief three years of his residence in Kentucky already made an independent fortune, is a very great mistake.

† Wilkinson's letter to Don Gardoqui, January 1, 1789, Gayarre's *History of Louisiana, Spanish Domination*, page 249.

was, as early as January 1, 1784, hinted to Arthur O'Neil, the Spanish Governor of Pensacola, by Alexander McGillivray, a half-breed Indian, who united in himself the talents of a warrior, of a diplomat, and of a statesman.\* Warned by the contemplated movement of Green and Clark the previous fall, Navarro, then the accomplished Intendant of Louisiana, on the 12th of February, 1787, wrote to his government that the enemies to be feared were not the English, but the Americans, who must be "opposed by active and sufficient measures;" and to this end urged the encouragement of immigration to Louisiana, by the removal of restrictions upon her commerce, and the promotion of her industries. "The only way to check them," he wrote, "is with a proportionate population, and it is not by imposing commercial restrictions that this population is to be acquired, but by granting a prudent extension and freedom of trade."† In furtherance of the policy thus urged upon his court, Governor Miro, in the spring of 1787, had "somewhat relaxed in the restrictions upon the river trade, and had granted permission to a number of American families to settle in Louisiana."‡ The regulations which restricted the commerce of Louisiana to a trade with Spain only would soon have depopulated the province; and, therefore, infractions of those restrictions had been winked at by the colonial government, "and for some time a lucrative trade had been carried on, not only on the Mississippi, but also, and principally, with the city of Philadelphia."§ But, suddenly, Gardoqui severely reprimanded Navarro, whom he "forced to proceed to the harshest measures," which occasioned great distress among the citizens of Louisiana. General Wilkinson, who had friends and correspondents, if not partners, among the Philadelphians in New Orleans, anticipated but trifling obstacles to the success of his venture. An inter-

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\* Gayarre's *Louisiana, Spanish Domination*, page 158.

† Gayarre, pages 182-3. Colonel Brown omits this from his extract on page 93.

‡ *Ibid.*, page 185.

§ *Ibid.*, page 185.



interview with Governor Miro secured a speedy revocation of the order which had been issued to seize Wilkinson's cargoes, Wilkinson was permitted to sell his produce free of duty, and was hospitably entertained by the Spanish officials. These unusual attentions, and his growing intimacy with the proud Spaniards, excited wondering comment. Besides the exemptions from seizure and duty then granted him, an arrangement for future shipments was made with Miro, not only of his own merchandise, but of that of his friends, which should be shipped in Wilkinson's boats. This official permission he carried back to Kentucky; it was renewed the following year and again in 1790. And to relieve his immediate necessities, Daniel Clark, Sr., was induced by the Intendant Navarro to advance the adventurer \$3,000.

During the administrations of Washington and Adams the conduct of Wilkinson excited the suspicions of those executives. At his solicitation, Daniel Clark, Junior,—a nephew of Daniel Clark, Senior,—who at the time of Wilkinson's intercourse with Miro was employed in the secretary's office at New Orleans, and who, when his representations were made, was a Spanish subject, and, as such, was interested in concealing from the government of the United States the real character of that intercourse;—this man was induced by Wilkinson to address a memorial to Secretary Pickering, representing that the privileges granted to Wilkinson were extorted from the fears of Miro, to whose apprehension of an invasion from Kentucky, it was alleged, he had successfully appealed. Afterwards, when Louisiana had passed into the possession of the United States, and was represented in Congress by Clark, whose duties had changed with his altered allegiance and position; finding that Wilkinson, who was then in command of the army, maintained his corrupt relations with Spain, Daniel Clark presented to Congress a sworn statement, in which he alleged that those privileges were granted to Wilkinson in consideration of his undertaking to separate Kentucky from the Union and bring her under the sovereignty or protection of Spain; that Wilkinson became a pen-

sioner of Spain, and continued to receive a pension from that power long after he had re-entered the army of the United States; and he specified the times and places at which Wilkinson had received various sums, the amount of which he named, in payment of that pension. Charges formulated in accordance with this statement were preferred against Wilkinson, who was tried upon them by court-martial in 1808. He was successful in impeaching the testimony of Clark, by producing in rebuttal the apparently conflicting statements of the memorial which, at his importunity, Clark had addressed to Pickering a few years before. He impeached the evidence of Thomas Power, another important witness against him, by showing a similar discrepancy between it and a previous statement he had cajoled from Power. In his own behalf Wilkinson did not scruple to insinuate that he had obtained the valuable privileges of trade by corrupting Miro and other Spanish officials. That his relations with the Spanish government, in the sale of tobacco directly to that government, had ceased before he re-entered the army; and that the sums it was proved he had received while holding a commission from the United States, were balances due him on all old and legitimate commercial transactions. And Oliver Pollock, who was an intimate of Wilkinson, and, possibly, associated with him in his ventures;—Oliver Pollock, whose relations with the Spaniards was known to have been so confidential that it was assumed he would certainly have known had any pension been paid to Wilkinson, and yet from whom Miro carefully concealed his negotiations with that adventurer; \*—Oliver Pollock testified in behalf of his friend, that he did not know of such a pension, and from his intimacy with the Spaniards he thought he would have known it had one been paid. On the contrary, he said, he had it from Miro himself, that “he had consented for General Wilkinson to bring down tobacco in hopes to pacify the Kentuckians and people of the western country, to prevent a rupture between Spain

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\* Miro's dispatch to Valdes, November 3, 1788, Gayarre, page 222.

and America, and in order to give time for negotiations between the two powers relative to the navigation of the Mississippi." Had this testimony been given in good faith, and had Miro been partly influenced by a wish to avoid hostilities from Kentucky, the fact would not have been at all inconsistent with his undoubted desire also to separate Kentucky from the Union, and that Wilkinson made a treasonable engagement to aid him in that enterprise. The court-martial acquitted Wilkinson on the ground that, whatever might have been the relations between Wilkinson and Spain before he re-entered the army, they had no jurisdiction to inquire into nor to punish him therefor. That his commercial relations had ceased before he went into the army. That, as he had made sales of tobacco to the Spanish government before he became an officer of the United States, the natural presumption was, that the sums which had been paid him were in liquidation of debts due to him on account of his previous commercial transactions. And so he was acquitted. Clark and Power were both discredited by their own previous statements. It was impossible for them at that time to clear the waters which Wilkinson muddied by documentary evidence sufficient to convince a court which had been organized in Wilkinson's favor. Yet his treason has been since established by his own letters so clearly that no one is so hardy as to deny it; that he was for years a Spanish pensioner has been indisputably proved; the entire scope and tenor of Clark's testimony against him, except as to the date when the pension commenced, have been absolutely confirmed; and that he was correct even as to the date is abundantly supported by other facts.

Wilkinson remained in New Orleans during the months of July and August, 1787, and in September made his way home by way of the gulf and ocean. While there he concerted with Miro a memorial addressed to the latter, but really intended for the Court of Madrid, to whom it was immediately forwarded. Its exact terms have never been made public. They probably differed in some expressions, if not in material respects, from the alleged copy, which

was exhibited by Wilkinson on his return to Kentucky, which he read in the Danville Convention of November, 1788, and the composition of which the "literary gentlemen" of that Convention thought so "elegant." The copy of the memorial which was read in the Convention was not handed in at the clerk's table for inspection by the members, but was retained by its author. It was not published at the time. The only report of it was made by Colonel Thomas Marshall, who had read it and who heard it read, and wrote an account of it to General Washington. In his letter to Miro, February 12, 1789, Wilkinson assured him that "in order to elicit an unequivocal proof of the dispositions of that assembly (the Convention) I submitted to its examination my original memorial and the joint answer of yourself and Navarro," and that he had received the unanimous thanks of that body in approbation of his conduct. On the 11th of April, Miro forwarded this letter of Wilkinson to Madrid, with his comments, in which he spoke of the boldness of Wilkinson's act in presenting this memorial to the Convention, and continued: "In so doing, he has so completely bound himself, that, should he not be able to *obtain the separation of Kentucky from the United States*, it has become impossible for him to live in it, *unless he has suppressed, which is possible, certain passages, which might injure him.*"\* It sufficiently appears from this, that the memorial committed Wilkinson to the separation of Kentucky from the Union, and invoked the aid of Spain; and to that length the copy read by him in the Convention undoubtedly went.

The nature of Wilkinson's arrangement still further appears in the letter of Miro to Valdes, of January 8th, 1788, already quoted, in which he says: "The delivering up of Kentucky into his majesty's hands, *which is the main object to which Wilkinson has promised to devote himself entirely*, would forever constitute this province a rampart for the protection of New Spain." The western people

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\* Gayerre, page 254.

would no longer have any inducement to emigrate, if they were put in possession of a free trade with us. This is the reason why this privilege should be granted only to a few individuals having influence among them, *as is suggested in Wilkinson's memorial*, because on their seeing the advantages bestowed on those few, *they might be easily persuaded to acquire the like by becoming Spanish subjects.*"\* Every official report made by Miro to his government incontestibly demonstrates that *his* understanding of the arrangement made with Wilkinson was, that the latter would devote himself to the task of separating Kentucky from the Union.

On the other hand, the letters from Wilkinson to Miro furnish proof equally strong, that the understanding of the former in reference to the part he was to play did not differ from that of the Spaniard. Their minds had completely met. By one of his boats which reached New Orleans in April, 1788, Wilkinson wrote Miro and Navarro of his safe arrival home, and that "all my predictions are verifying themselves, *and not a measure is taken on both sides of the mountains which does not conspire to favor ours;*" which a man of a far less sanguine temperament might well have believed. On the 13th of May, 1788, Wilkinson wrote to Miro and Navarro a letter which fully discloses *his* construction of his bargain. From it this is an extract :

"On the first day of January of the next year, 1789, by mutual consent, this district will cease to be subjected to the jurisdiction of Virginia. It has been stipulated, it is true, as a necessary condition of our independence, that this territory be acknowledged an independent State by Congress, and be admitted as such into the Federal Union. But a convention has already been called to form the constitution of this section of the country, and I am persuaded that no action on the part of Congress will ever induce this people to abandon the plan which they have adopted, although I have recent intelligence that Congress will, beyond a doubt, recognize us as a sovereign State. The convention, of which I have spoken, will meet in July. I will, in the meantime, inquire into the prevailing opinions, and shall be able to ascertain the extent of the influence of the members elected. When this is done, after having

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\*Gayarre, page 199.

previously come to an understanding with two or three individuals capable of assisting me, I shall disclose so much of our great scheme as may appear opportune, according to circumstances, and I have no doubt but that it will meet with a favorable reception; because although I have been communicative with no more than two individuals, I have sounded many, and whenever it has seemed expedient to me to make known your answer to my memorial, it has caused the keenest satisfaction. Colonel Alexander Scott Bullitt and *Harry Innes*, our attorney-general, are the only individuals to whom I have entrusted our views, and in case of any mishap befalling me before their accomplishment you may, in perfect security, address yourselves to these gentlemen, whose political designs agree entirely with yours. Thus, as soon as the new government shall be organized and adopted by the people, they will proceed to elect a governor, the members of the legislative body, and other officers, and I doubt not but that *they will name a political agent to treat of the affair in which we are engaged*, and I think that all this will be done by the month of March next. In the meantime, I hope to receive your orders, which I will do my utmost to execute. I do not anticipate any obstacle from Congress, *because, under the present federal compact, that body can neither dispose of men nor money*, and the new government, should it establish itself, will have to encounter difficulties which will keep it weak for three or four years, before the expiration of which, I have good grounds to hope, that we shall have completed our negotiations, *and shall have become too strong to be subjected by any force which may be sent against us.*" [Gayarre, pages 209-10.]

On the 15th of June, 1788, Miro sent to Madrid a copy of Wilkinson's letter. From the observations with which he accompanied that letter, the following is an extract; the major referred to in which extract was Isaac Dunn, the confidential agent of Wilkinson, and who was in charge of his boats and their cargoes, viz.:

"This major confirms all of Wilkinson's assertions, and gives it out as certain that, next year, after the meeting of the first assemblies in which Kentucky will act as an independent State, *she will separate entirely from the Federal Union*; he further declares that he has come to this conclusion from conversations among the most distinguished citizens of that State; *that the direction of the rivers which run in front of their dwellings points clearly to the power to which they ought to ally themselves*, but he declares that he is ignorant of the terms on which this alliance will be proposed." [Gayarre, page 212.]

It seems also from a letter of McGillivray, the half-breed, to Miro, which the latter forwarded at the same time, and the statements in which are unfortunately fully confirmed by letters from John Sevier to Miro, that delegates from Tennessee had assured him that the people of that section, as well as those of Kentucky, were

ready "to throw themselves into the arms of his majesty," and were "determined to free themselves from their dependence on Congress, because that body can not protect either their persons or their property, or favor their commerce, and they therefore believe that they owe no obedience to a power which is incapable of benefiting them." The sentiment is closely akin to that of Hary Innes' letter to Randolph. Extracts might be multiplied almost indefinitely, to show not only the bargain of Wilkinson, but that a well defined purpose existed on the part of many to "*Revolt from the Union;*" but enough has been presented to satisfy the reader of the existence of that purpose. In the spring of 1788, Navarro left for Spain.

In his last official dispatch he renewed his solemn warnings of the danger to the Spanish domination in Louisiana and Mexico which proceeded from the restless ambition and activity of their American neighbors. The remedy he suggested and urged, and the application of which he deemed not very difficult if the propitious circumstances then existing were promptly utilized, was a separation of the west from the Union. The means by which this could be done were, by "granting every sort of commercial privileges to the masses in the western region, and *showering pensions upon their leaders!*" The accomplished Gayarre states, that this dispatch "produced a deep impression at Madrid, and confirmed the government of Spain in the policy *which it had begun to pursue.*" Whether Wilkinson was bribed by the direct payment or promise of a pension in money from the inception of his engagement with Miro, or received his pecuniary compensation at first in the shape of exceptional trade privileges and in the price paid by the Spanish government for his tobacco, is a matter into which it is unimportant to inquire. The relative degrees of turpitude in the two modes of corruption may well be left to casuists to determine. His own letters indelibly stamp his scheme as treasonable and his motives as wholly selfish and mercenary.

That Colonel John Mason Brown was fully conversant



with all the details of the correspondence between Wilkinson and the Spanish officials, as well as with the representations made by the latter to their court at Madrid, is made apparent by the note at the bottom of page 20 of his Frankfort Centennial Address, in which, after referring to the "representations of the Spanish officials to their government," as given in *Gayarre*, he says: "That work (*Gayarré*) has been freely consulted and used in the preparation of this address." From his citations from these "representations," and from other parts of *Gayarre*, however, he carefully excluded every sentence concerning this scheme which had been concocted by Wilkinson with Navarro and Miro. On page 7 of that address, Wilkinson's "grossly improper conduct, *while holding the highest military command, and his receipt of money from the Spanish authorities,*" are admitted. But the fact that, *before* he had any military command, and contemporaneously with securing the trade permit, (his address in obtaining which is admirably dwelt upon by Colonel Brown,) Wilkinson entered into a conspiracy with the Spaniards to separate Kentucky from the Union and to subject her to Spain, and that the two were evidently parts of the same negotiation, is scrupulously concealed from the readers of that eloquent oration. Immediately following a statement of Wilkinson's return to the army in the latter part of 1791, Colonel Brown, on page 14 of his address, says: "It is to be deplored that he did not, in forsaking civil life, abandon totally his commerce with the Spaniard; for holding to the *mercantile relations proper enough in his civil days*, he wrecked his name and fame and fortunes in a dishonorable intrigue. When the crime of a *high military officer* can be extenuated only on the plea that he lied, and that he deceived the foreigner whose gold he took, palliation is impossible." Again, on page 16 of the address, Colonel Brown says: "Wilkinson's *moral downfall* was of a *later date*," [than his appointment to the army in 1791], "his disgraceful attitude as a stipendiary of the Spanish king was not assumed until 1797, most probably." Disentangled from the ambiguity in which his meaning is



ingeniously cloaked, the orator could only have intended to convey to his auditors the impression, that, prior to Wilkinson's return to the army in 1791, his relations with Miro were strictly commercial, were "proper enough," and were innocent; that the sole impropriety in his conduct was in continuing, *after he had become* a soldier, the *mercantile* relations with Miro, which were innocent so long as he remained a civilian! And while writing this, Colonel Brown had before his eyes the evidence in Wilkinson's own letters, that the latter had, four years before he re-entered the army, made an engagement with Miro to devote his time to an effort to separate Kentucky from the Union, and that the mercantile privileges extended to him were granted in consideration of that pledge? The manifest injustice that would be done to Colonel Brown in one direction by assuming that he intended to say, that a scheme to dismember the Union, though dishonorable in an officer, was "proper enough" in a civilian, and as all intimations of the nature of Wilkinson's engagements at that time are excluded from the address, forces into prominence the disagreeable alternative, that he intended to deny in that address the facts of which he had distinct knowledge and irrefutable proof. But, in his "*Political Beginnings*" (page 71) the same talented author admits that, in 1787, when Wilkinson obtained his trade permit, "he began with Miro an intrigue that fully committed him to Spain;"—which is as true as it is that Colonel Brown knew it very well when, failing to state the fact to his auditors at Frankfort, he suavely informed them that Wilkinson's "moral downfall was of a later date" than 1791. The reconciliation of the two statements with each other, and with that "historic veracity" of which Colonel Brown writes in the "*Political Beginnings*," is left to those whose talents are competent to the task.

On his return from New Orleans to Kentucky, Wilkinson called at Mt. Vernon, on the 7th of December, 1787. Finding his former commander solicitous for the adoption of the "new plan," he informed Washington that North Carolina (through which he had passed) was "unanimous

for the adopting" \* the constitution ; which was very, very far from true. In February, 1788, he reached Kentucky. The morning after his arrival at his home in Fayette he dispatched a messenger with a letter to Hary Innes, who then resided in Danville, and who, the next day, returned with the messenger to Wilkinson's home. Shortly after reaching Wilkinson's, Mr. Innes went with him into a room apart from the other guests, and there held a long and confidential consultation with his host.† What the nature of the conversation between them, that could not be had in the hearing of Charles Scott and the other guests, was, may be inferred from Wilkinson's statement in his letter to Miro (May 15, 1788), that while he had sounded many, yet "Colonel Alexander Scott Bullitt and Hary Innes, our attorney general, are the only individuals to whom I have intrusted our views, and, in case of any mishap befalling *me* before their accomplishment, you may, in perfect security, *address yourselves to these gentlemen, whose political designs agree entirely with yours.*"‡ Certainly there was not one of his intimates to whom he would more naturally have communicated his engagements with Miro, than to the signer of the call for the Convention of May, 1787, who had, in July of that

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\* Sparks, Vol. IX., page 288.

† In the case of Innes v. Marshall, Richard Thomas deposed that he had gone with Wilkinson on his trading expedition in 1787 as far as the Chickasaw Bluffs, and then returned to Kentucky with a letter from Wilkinson to his wife, and remained at Wilkinson's until the latter returned, in the Winter of 1788. "That on the evening of the day on which General Wilkinson returned he got the deponent to get ready to carry a letter for him next morning over the Kentucky river to Hary Innes, who then lived in the town of Danville, and furnished him with a horse and gave him a half sovereign as compensation and to bear expenses. This deponent further says that he went to Mr. Innes' with a letter to give him from General Wilkinson, which he delivered to said Innes. That Innes kept the deponent with him that night, and was busy writing a great part of the night, and next morning made an early start with the deponent back to General Wilkinson's, where he (Innes) was received by General Wilkinson, and shortly after they two went into a room together, leaving General Scott and several other gentlemen with the deponent drinking some spirits in the common room or hall."

‡ Gayarre, page 209.

year, written to Gov. Randolph, that, "in a few years, this western country will Revolt from the Union," and who, in 1806, struck those significant words out of what he vouched for as a *true copy* of what he had written. A short time after this conversation, about the 1st of March, 1788, Innes applied to Joshua Barbee, of Danville, to know if he would descend the Mississippi for General Wilkinson; and, Barbee consenting, he was employed, together with Richard Thomas, by Wilkinson, to carry dispatches to Miro, and to the commandant at Natchez, and a letter to Daniel Clarke. The dispatches were placed in a trunk, which was weighted with rocks, with orders to sink the trunk in case there should be any danger of its contents falling into the hands of parties other than those to whom they were directed, and for Barbee to deliver these with his own hands.\* Barbee and Thomas were kept in ignorance of the nature of the dispatches to Miro, and, in his suit against Humphrey Marshall an attempt was made by Innes to have it appear that it related simply to Wilkinson's commercial ventures; but it was really the letter in which Wilkinson gave Miro information that all things were conspiring to insure the success of their intrigues, and which was forwarded by Navarro and Miro to Madrid in their dispatch of the 11th of April, 1788.

On the 15th of May, Wilkinson again wrote, by Major Isaac Dunn, who was in command of the boats containing the second of his cargoes, stating his confident expectation that, though the law of Virginia consenting to the separation stipulated, as a necessary condition of the independence to be granted, that the district should first be acknowledged by Congress as independent, yet that no action Congress might take would ever induce the *people* to abandon the "plan," which he represented that they had "adopted;" and assuring Miro, that so soon as the constitution should be framed by the convention to meet in July, and the government of the new state should be organized by the election of the officers, † "*I doubt not but that they*

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\* Gayarre, page 206.

† Ibid., page 209.

*will name a political agent with power to treat of the affair in which we are engaged."* That the mercurial and sanguine Wilkinson actually anticipated, and had only too good reason to hope, that this result would be attained, all the evidence tends to establish; and that he faithfully tried to accomplish it, and, so far as he dared, fulfilled his bargain with the Spaniard, is certain. His statement in a private letter to Miro, that "he, (Wilkinson) flattered himself with the prospect of his being the delegate of his state to present to me (Miro) *the propositions offered by his countrymen, and that he hopes to embrace me in April next,*" which was duly communicated to his court by Miro, was as honest a declaration as ever came from the lips or pen of the needy and unscrupulous adventurer.

D'Arges, who had "received instructions from Gardoqui and the Count of Florida Blanca, one of the members of the cabinet of Madrid, to do all in his power to secure the dismemberment of the American Union," had gone to New Orleans to solicit aid from Miro, who prevented him from proceeding to Kentucky, in order that, as he explained to his court, the vanity of Wilkinson might not be wounded by the discovery that a rival was engaged in the same enterprise, and might snatch from him the rewards of success. In the meantime every facility was afforded by Miro to Wilkinson, not only to ship his tobacco to New Orleans, but also for the purchase of merchandise there and its shipment on boats to Kentucky; "because," as he explained to his court, "it is exceedingly important that the western people should see, *before declaring themselves for a change of domination*, that the true channel through which they have to be supplied with the objects of their wants, in exchange for their own productions, is the Mississippi." He wrote, as he stated to his government, to Wilkinson not to sell his goods for more than they cost him in New Orleans, "because it is highly important that this first essay should inspire the inhabitants of Kentucky with the most flattering hopes. I have good reasons to expect that the arrival of the boats will produce the most agreeable sensation among those people, and will

make them feel more keenly that their felicity depends on the concession of such commercial facilities by his majesty, and for the acquisition of which I conceive there are but few sacrifices which they would not make.”\*

Wilkinson himself, in order to impress the people of the district with the advantages of a change of political relations, not less than from a natural love of vainglory, assumed increased magnificence in his equipage and stylish living, dwelt profusely upon the advantage of navigating the Mississippi and of a commercial connection with Louisiana, with broad hints to the public, “that nothing was necessary to bring it about but separation from Virginia and the independence of Kentucky.”† The effect of this upon the minds of a people who had been carefully instructed that Jay had wanted to abandon the rights to navigate the river, that Congress would not procure this commerce for Kentucky; but that now General Wilkinson had opened up the one and secured the other *for them*: was to make Wilkinson the idol of the hour, and to direct popular clamor, prejudice and hate against the few who were bold enough to express their convictions, that, behind all these favors granted to Wilkinson, there must needs be designs other than commercial and which boded no good to the public peace. In the midst of all this laudation of Wilkinson the fact, that the privileges of commerce with the Spaniard which he had secured were limited to himself, was apparently ignored; and if it was suggested that an individual could scarcely obtain franchises for his private benefit, which all the efforts of Congress had been unavailing to obtain for the western people, without committing himself in some occult way to the power granting the favors, there were champions always at hand to attribute such suspicions to jealousy of a man whose energy equaled his popularity.

The elections for members of the convention to frame a constitution, which had been authorized by the assembly

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\* Gayarre, page 220.

† Marshall, Vol. I, page 283.

to be done, *provided* Congress should previously give their assent to the separation and to the reception of Kentucky as an independent member of the confederation, were held even while all the bells were ringing the praises of the most perfidious of traitors. Wilkinson himself, his intimate friend, Innes, Caleb Wallace, and Sebastian, whom Wilkinson had completely captured before the meeting of the convention, were all elected as members. John Brown, who had been sent to Congress, and who did not return to Kentucky until the following September, was not a member of the convention of July, 1788, though his name is in the list published by Collins, which was evidently intended as that of the members of that body. Nor was Muter, who had removed from Danville and was for a time relieved from a malign influence, a member thereof.

## CHAPTER IX.

THE NECESSITY FOR A MORE PERFECT UNION AND A GOVERNMENT CLOTHED WITH NATIONAL POWERS FOR NATIONAL PURPOSES—THE EFFORTS MADE TO DEFEAT THE ESTABLISHMENT OF THE GOVERNMENT BY THOSE WHO WERE MOST DENUNCIATORY OF THE IMPOTENCE OF THE CONFEDERATION—THE ADOPTION OF THE CONSTITUTION—JOHN BROWN AND HIS COTERIE IN KENTUCKY OPPOSED TO THE RATIFICATION.

There is no year more memorable in American history than that of 1787, during which the convention of delegates from the several States completed its great labor of framing the Constitution, and submitted its work to the separate States for ratification. The necessity for a *government*, clothed with the power of making and the means to enforce *laws*, to take the place of the weak *confederation*, which was little more than a sort of *central agency*, which could only *recommend* measures to the States, and whose labors for the commonweal were constantly thwarted by narrow jealousies within the States, which frequently refused to comply with those recommendations, had become apparent to our statesmen. That "thirteen sovereignties pulling against each other, and all tugging at the federal head, will soon bring ruin on the whole," was the gloomy prognostication of the chief whose influence and authority and wisdom had surmounted and counteracted during the war the evils of the system which he deplored. The remedy he suggested was "a liberal and *energetic* constitution" to take the place of the "lax or inefficient government" of the articles of confederation. Perhaps the one man to whose daily experience the defects in the federal system, which threatened our experiment of republican government with an early and disgraceful failure and saddened the retirement of Washington at Mt. Vernon, were more actively brought home than to any other, was the able and gallant General Henry



Knox. As Secretary of War his life was made a burden by the applications on the one hand for protection against the Indians, and on the other by complaints that the whites were not only constantly encroaching on the Indian lands—in defiance of treaties, the ink of which was scarcely dry—but were as continually murdering the Indians themselves. Congress could place neither men nor money at his disposal, and the States refused to grant him either, with which only he could enforce the treaties which secured to the Indians their lands free from molestation on the one hand, or punish their depredations and aggressions against the whites on the other, and thus protect both races. Virginia assailed him with the most angry expostulations because the Indians were encouraged to their murderous attacks upon the Virginia settlers of the Kentucky district, by the retention of the military posts in the north-west by the British; and to his every representation to the British officers commanding those posts, that their retention was a violation of the treaty entered into by their government, the curt reply was returned, that the treaty had been violated by the refusal of Virginia and other States to repeal their laws suspending the collection of debts due to British citizens.

While continuing to inveigh against the secretary because the posts were held, Virginia refused to repeal the laws which were made the pretext for holding them; and the States which most loudly clamored of the inefficiency of the secretary, for not compelling the British to evacuate the posts which they did not surrender voluntarily; were precisely those which most obstinately refused him the means with which to comply with such demands.

If there was any one who felt equally with Knox, the urgent necessity that the United States should become a nation, it was the honest, the incorruptible, the courageous and patriotic John Jay. He was embarrassed by many of the difficulties which surrounded and hampered the Secretary of War. Besides these he was made to feel those which beset his negotiations with Spain. His convictions as to our right to the navigation of the Missis-



issippi, and of the ultimate value and importance of that navigation had been asserted and remained unaltered. His purpose never to barter away the *right* was unchangeable. But he had no conception of the rapidity of the growth of the west, and, in common with others, persuaded himself that the navigation would be of little practical value for a quarter of a century. By that time, if Spain did not concede that right, we would be able to enforce it by arms. In the meantime, we were in no condition for a war with any power. Nor could the States, upon which the otherwise powerless central government must rely for men, money, and supplies, be united in a war for such a purpose. Under those circumstances it was, that he suggested to Congress a treaty with Spain, limited to twenty or thirty years, during which time we would *forbear the use* of that navigation, by accepting which Spain would admit the right *after* that time which was claimed by implication. He explained that if we insisted immediately on our right to navigate the Mississippi, Spain would at once strengthen her posts on the banks of that stream, "and bid us defiance with impunity, at least until the American nation shall become more really and truly a nation than it is at present." It was in order that the strength of an united country, acting under a vigorous central authority, might be exerted to enforce this and other rights, to maintain peace at home and to uphold republican credit, dignity and honor abroad, that Washington and Adams, the liberty-loving Jay, the gifted Hamilton, the gallant Knox, and the intrepid Henry Lee, with the bulk of the veterans who had borne the brunt of the revolution, desired that "the rope of sand" should give way to a cable of iron.

The subject of intensest anxiety with those capable and far-seeing patriots was, whether the instrument by which the central authority ceased to be a Congress to advise the States, and became a Government of the People, would be ratified by the States. For months Virginia was in the doubtful column. To General Knox, Washington wrote from Mt. Vernon of "the unfair (I might, without much impropriety, have made use of a harsher expression)

conduct, which has been practiced to raise the fears and to inflame the minds of the people" of Virginia. "Pains have not been wanting," he declared, "to inculcate a belief that the proposed general government will, without scruple or delay, barter away their right to the navigation of the Mississippi." To Thomas Johnson, of Maryland, he wrote: "The sentiments of Kentucky are not known here yet (April 20, 1788). Independent of these, the parties in this State are pretty equally balanced." Later he wrote to John Jay, that little doubt remained of the ratification by Virginia "if no mistake has been made with respect to the Kentucky members." On the 4th of June, Mr. Madison wrote from Richmond to Washington: "I dare not, however, speak with certainty as to the decision. *Kentucky has been extremely tainted*, is supposed to be generally adverse, and every kind of address is going on privately to work on the local interests and prejudices of that and other quarters." Four days after the date of Madison's letter, Washington again wrote to Mr. Jay, that the friends of the Constitution "express apprehension of the arts that may yet be practiced to excite alarms with the members from the western district (Kentucky)." A week later he wrote to General Knox: "Much appears to depend upon the final part which the Kentucky members will take; into whose minds unreal dangers, respecting the navigation of the Mississippi have been industriously infused."

The argumentative resources of Madison and of Wythe, of Edward Randolph and his brother-in-law, George Nicholas, of John Marshall and James Breckenridge, and of Walter and Gabriel Jones;—the eloquence of James Innes, which rivaled that of Henry,—the personal influence of Washington, operating from Mt. Vernon: were all needed and taxed to carry the ratification through the Virginia convention by the meagre majority of 89 yeas to 79 nays. Of the fourteen delegates from Kentucky only three voted for ratification; two were silent; and the others, unrelentingly hostile, gave negative votes. Among the last was every man upon whom Wilkinson, or Sebas-

tian, or John Brown, or Hary Innes could have wielded the slightest influence. The three who helped to establish our government were Rice Bullock,\* Robert Breckenridge,† and Humphrey Marshall, all revolutionary officers.

\* He was the ancestor of the Bullocks of Shelby county and the father of the wife of Richard Butler, of Carrollton; a near relative of the late Waller and Edmund Bullock, of Fayette, the progenitors of a worthy and a sterling race; and, more remotely a kinsman of the family of the same name in Mason.

† Alexander and Robert Breckenridge were sons of Colonel Robert Breckenridge, of Virginia, by his first wife. Their mother was a Miss Poage, daughter of the first Robert Poage, of Augusta county, sister of William Poage, who was killed by the Indians near Harrodsburg, and aunt of the late General Robert Poage, of Mason county. Their mother dying when they were young, and their father forming a second marriage with Letitia, daughter of John Preston and sister of Colonel William Preston, Alexander and Robert Breckenridge were bound as apprentices to Francis Smith (who had married another daughter of John Preston) to learn from him the trade of a carpenter. They became capital mechanics; but, preferring the career of arms, they both entered the American army early in the Revolution, became officers, and made good records for themselves. After the close of the war both came to Kentucky, locating at first in Fayette, but settling permanently in Jefferson. Alexander married the widow of Colonel John Floyd, and was the father of the late General James D. Breckenridge, of Louisville, and of Captain Henry Breckenridge, who was greatly admired for his talents, captivating manners and personal beauty. Alexander Breckenridge was a member of the convention of 1787, and, with Humphrey Marshall, helped to give its proceedings a peaceful and tranquilizing effect. He died early and young. Robert Breckenridge, who was the more energetic and intellectual of the two brothers, was a member of the Virginia Assembly of 1788; a member of the convention which ratified the constitution in the same year; a member of the convention which framed the first constitution of Kentucky in 1792; was the Speaker of the first House of Representatives for the State, and was successively re-elected to that position three times. For a short time he was county lieutenant for Jefferson, but seems never to have taken any active part in actual fighting in the west. He and his younger half-brother, James Breckenridge, not only voted side by side with John and Humphrey Marshall to ratify the Constitution, but were also with them in the hearty and vigorous support they all gave to the administration of Washington, which John Breckenridge, the able, eloquent and singularly beloved half-brother of the one and full brother of the other, did much to embarrass. John Breckenridge was the President of the Democrat Society at Lexington, and the author of the Kentucky Resolutions of 1798-9. The four Breckenridge brothers were the gallant offspring of a brave and honest sire. The mother of John and

They appear to have taken no active part in the debates of the convention. But their votes counted in the slender majority, which, had they been cast adversely, would have been reduced to four. It has been claimed that to their position and influence, as western members, it was due that the proposition carried at all. The last named had, two years before, boldly assailed the proposition that Kentucky should assume independence and sovereignty without and against law, and without the assent of Congress, had checked the audacity of Wilkinson, from whom he forced a modification of his position and a ridiculous attempt to explain away his utterances. As a member of the convention called by Brown, Innes, Muter and Sebastian in May, 1787, he had assisted in defeating the propositions designed to excite the fears and to inflame the minds of the people; and to compel an adjournment without action of any kind. As a member of the convention which met in the fall of that year, he had aided in giving to its action a peaceful direction and tranquilizing effect. And now, in 1788, at the aspiring age of twenty-eight years, with the full knowledge that the overwhelming mass of his immediate constituents were opposed to the action to which he was impelled by his own clear judgment and solemn convictions of duty, he, alone of the delegation from Fayette, contributed his vote and the whole weight of his strenuous exertions to the establishment of the government which lifted our country from the slough into which it had sunk in its weakness. For this vote he was most bitterly assailed. His own reasons therefor are interesting as indicating the character of the

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James, Letitia Preston, transmitted to her descendants her intellect, her elevated character, her comeliness and her grace. John and James were cousins-german to John Brown; but they were so different from him in every mental, moral and physical characteristic, that no one would ever have suspected that one drop of kindred blood flowed in their veins. General Robert Breckenridge never married. He accumulated a large fortune, which he left to Eliza, only daughter of his nephew, General James D. Breckenridge, and wife of Shakespeare Caldwell.

man and the principles which animated his entire public life :

“ He had participated in the scenes of the revolution—heard the want of power in Congress, often deplored, and witnessed its defects, as to the Indian affairs, and the Union generally ; to which he was strongly attached ; he had also been an observer of General Wilkinson’s conduct, which was not to be accounted for upon legitimate motives ; and he deemed the new constitution an improvement of the federal system—after hearing it ably discussed ; his own convictions he could not violate ; these taught him that he was subserving the *real interests* of his constituents—and according to these he acted ; putting to hazard and at naught his own popularity. Thinking withal, for his experience was yet in its bud, that the people possessed intelligence, and justice enough to perceive and applaud the propriety of the course pursued.”

Colonel John Mason Brown, in his “ Political Beginnings,” states, that “ the bent of educated opinion in Kentucky was evidently in favor of the federal constitution, *but insisted on certain necessary amendments* ;” and, that while Thomas Allin and Matthew Walton, two of the members of the “ Danville Political Club ” voted against the ratification of the constitution, “ the other members seem to have been, without exception, zealous supporters of the new plan for Union and constitutional government.” But the fiercest assailants of the constitution avowed themselves as favorable to “ the new plan for Union and constitutional government.” They found it more convenient to “ *insist on certain necessary amendments* ” merely, than it was to avow themselves distinctly as opposed to a change from the “ old plan ” under which shipwreck and chaos were impending. Nevertheless, as the several state conventions were not agreed as to what amendments were “ *necessary*,” and as they had no power to enact any amendments whatever ; and as the only question presented to those conventions was whether they would reject the constitution as it was presented to them, or ratify, leaving its amendment for future action as pointed out in its provisions ;—it inevitably resulted that those who “ *insisted on certain necessary amendments*,” whether they were sincere as Henry proved himself to be, or hypocritical as others were, were hostile to the constitution as it stood, were opposed to its ratification, and were for

the rejection of "the new plan for Union and constitutional government," upon which the state conventions were called to act. The sagacious mind of Washington, which was rarely at fault, saw, "that this, (the constitution as presented), or a dissolution of the Union, awaits our choice, and is the only alternative before us." To Lafayette he wrote his maturest conviction, that, in case the constitution should be rejected, and another general convention should be called, its members "would not be able to agree upon any system whatever," that many of the objections that had been urged "would operate equally against any efficient government that might be proposed," and that there was "no alternative, no hope of alteration, no intermediate resting-place between the adoption of this and a recurrence to an unqualified state of anarchy, with all its deplorable consequences."

There were some members of that "Political Club," who wished the constitution ratified. But there were others beside Thomas Allin and Matthew Walton, (who voted against the ratification,) who were in line with "the bent of *educated opinion in Kentucky, which insisted on certain necessary amendments;*" which insistence involved the rejection of the constitution, taking the risk that a second general convention would be called, with the all but certainty that, if ever called, it could never form a scheme of government upon which the discordant elements, inflamed by passion and prejudice, could agree. It is not to be supposed that the author of "Political Beginnings" intended to be understood, that his grandfather and his grandfather's brother, James, and their friends, Innes and Sebastian, who were all members of the "Political Club," were out of sympathy with "the bent of *educated opinion in Kentucky.*" It is true, the author asserts that when John Brown "repaired to New York he was earnestly impressed with the wisdom and necessity of immediately adopting" the constitution; that John Brown was in cordial agreement with Madison in regard to the constitution, and that it was partly owing to this position that he was chosen as a delegate to Congress by the Virginia as-

sembly. But underneath all this mass of assertion, the substantial truth seems to be, that John Brown was one of those educated men in Kentucky who "*insisted on certain necessary amendments,*" and, made their previous adoption a condition precedent to the ratification of the constitution, to which, without those amendments, he was opposed. This is corroborated by Humphrey Marshall's statement, made during the life time of John Brown, and which was not denied, that, during Marshall's attendance upon the Virginia convention, he had "been abundantly forewarned of the loss of popularity" if he voted for the ratification, "and admonished, that it *was Mr. Brown's decided opinion, rendered in a letter to a member, that the constitution ought to be REJECTED.*" The Wilkinson party in Kentucky, of whom Brown was one, were known to be almost, if not quite, unanimously opposed to the constitution. This was especially the case with those who had been active, as Brown had been, in producing and exciting public clamor on the subject of the navigation of the Mississippi. It has been seen from the letters of Washington, that the opposition to the constitution in Kentucky was mainly from that faction.

In Littell's pamphlet, published by John Brown and others of that faction, the statement was made that "there was much reason to fear that bartering away the navigation of the Mississippi would be one of its (the new government's) *first acts.*" It can scarcely be doubted that John Brown, who, in 1806, thus asserted that there was "much reason," in November, 1788, after the Constitution had been adopted, for the 'fear' that this bartering away "would be one of the first acts" of the new government, exerted his influence, so far as it went, to prevent the establishment of that government, which there was much reason to fear, would do that thing. That he succeeded in making the amiable and trusting Madison believe him to be a friend of that Constitution and Government, from which so much was to be feared, if it is at all true that Madison did so believe, is not at all incompatible with what all other circumstances conspire to establish as the



actual truth, that he was as decidedly hostile to it as any delegate from Kentucky who openly opposed the ratification of that instrument. Not one scintilla of evidence has ever yet been produced tending to disprove Marshall's emphatic declaration.



## CHAPTER X.

JOHN BROWN IS ELECTED TO CONGRESS—KENTUCKY'S APPLICATION PLACED IN HIS CHARGE—THE ADOPTION OF THE CONSTITUTION BY TEN STATES, INCLUDING VIRGINIA, NECESSITATES THE REFERENCE OF THE APPLICATION TO THE NEW GOVERNMENT, WHICH HAD THUS BEEN FORMED—GARDOQUI'S PROPOSITION—IT IS FAVORED BY JOHN BROWN, WHO WRITES LETTERS TO KENTUCKY ASCRIBING SINISTER MOTIVES TO CONGRESS—HE URGES KENTUCKY TO DISREGARD THE ADVICE OF THAT BODY, TO FORM A CONSTITUTION AND ERECT ITSELF INTO A STATE, IN ORDER TO ADOPT MEASURES TO PROMOTE HER OWN INTERESTS—THOSE INTERESTS CLEARLY INDICATED IN THE GARDOQUI OVERTURE—THE TRICK PLAYED BY JOHN BROWN TO CONCEAL THE MOTIVE OF THAT OVERTURE—IT IS IMITATED BY HIS GRANDSON.

On the 12th of November, 1787, the name of John Brown appears for the last time on the journal of the Virginia Senate.\* To him the duty of placing before Con-

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\*This was the date of the passage of the second series of resolutions in regard to the navigation of the Mississippi by the House of Delegates, which were never introduced into the Senate, and a transcript of which John Brown did not even take the trouble to carry with him to Congress. In fact these resolutions, which are those quoted in the "Political Beginnings" as having been passed in 1786, *never were* forwarded to the Congressional delegation. [See letter of Madison to Edmund Randolph, Sept. 24, 1788, *Madison Papers*, Vol. II., page 677.] The Mr. Thruston, by whom they were called up in the House of Delegates, was the gallant Colonel Charles Mynn Thruston, a worthy scion of the cavaliers, not of the rakehelly and swashbuckler variety, but of the nobler type of the stern Strafford, the chivalrous Ormond and the princely Hamilton. He descended from a family which became early seated in Gloucester, where he was born. His wife was a member of the numerous and highly reputable family of Buckner. They were the parents of Buckner Thruston, who became distinguished as a judge and as a U. S. Senator from Kentucky. Among the Kentucky descendants of Colonel Charles Mynn Thruston are the family of his name in Louisville; that of the late Judge Pirtle, and of the late Dr. Lewis Rogers, of the same city; and Mrs. Paxton Marshall, of Mason. He graduated at William and Mary College; was an officer in the French and Indian war; became an Episcopal minister, and continued in that profession until the Revolution; he then raised a company and marched to join Washington in New Jersey. At an engagement at Amboy his arm was shat-

gress, the respectful application by the convention of September, 1787, that assent should be given to the establishment of the independence of Kentucky, in accordance with the conditions expressed in the act of the Virginia Assembly (of January 10, 1787), and for the admission into the confederation of the new State to be thus erected, had been expressly entrusted. But no quorum of Congress met until the last of January, 1788; the application was not presented by Mr. Brown until the 29th of February. The reason for the delay assigned by Mr. Brown : that "great part of the winter *and spring*, there was not a representation of the States sufficient to proceed to this business:" was probably the true cause. Even after a quorum was had, the members were too much occupied with watching the reports of the action of the several States upon the question of ratifying the new Constitution (many of the members of Congress were also delegates to the respective State conventions) to give proper attention to their immediate business.

It was not until the 30th of May that Congress fixed upon the 2d of June as the day for considering the application. On that day Congress, sitting as a committee of the whole, cheerfully adopted the report presented by Mr. Otis, of Massachusetts, asserting the expediency of "erecting" the Kentucky district into an "independent state," and referring the application of the convention and the acts of the Assembly of Virginia to a committee to be composed of one member from each state, to prepare and report an act assenting to the "independence of the said district of Kentucky, and for receiving the same into the

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tered. He was promoted to a Colonelcy, but as the regiment to which he was appointed could not be raised, he became a supernumerary. After drawing the sword he never resumed the gown; but became presiding judge of the Frederick Court, and frequently represented that county in the assembly. In 1809 he removed to Louisiana, where he died in 1812. The battle of New Orleans was fought upon the place of his interment. The presentation of these resolutions by this gallant veteran, and their advocacy by such men as Patrick Henry, George Mason, and Nicholas, sufficiently refute the pretense that their passage was "*procured from the assembly*" by John Brown.

Union as a member thereof in a mode conformable to the articles of confederation." There were but eleven of the states then having delegates present, and to a committee of that number Congress the next day referred the papers, with directions to draft and report a bill to give effect to the sense of that body as it had been thus formally declared. Among the members of this committee there was no difficulty in agreeing upon the terms of the bill; nor is there an iota of testimony to sustain the assertion made by John Brown in his letter to Muter, that the delay in reporting the bill which was drawn by that committee was occasioned by the opposition of a majority of its members to the measure.

Ere three weeks had passed, however, intelligence was brought that New Hampshire had transmitted her ratification of the Constitution, which gave the number requisite for its adoption and the establishment of the Republic of the People. Moreover, though no formal and official notification of Virginia's action on the 26th of June had been received; yet, by the 1st of July, Mr. Madison, fresh from the scenes of his polemic triumphs, had arrived in New York; and it was known that Virginia, of which Kentucky was a part, already made the *tenth* of the assenting commonwealths, that the confederacy had become moribund, and that the new Union was about to be launched upon its career of magnificent achievement. That the confederacy was on the eve of dissolution, that the rightful powers of its Congress to grant the application had thus terminated, was the ample justification for the request (on the 2d of July) made by the committee on whom had been imposed the duty of drawing a bill for that purpose, to be discharged. The bill, which had been drawn by the committee, was then promptly offered by John Brown, was seconded by Edward Carrington, and was made the special order for the next day. When it was then called up by Mr. Brown for consideration, a substitute was offered by Mr. Dane, of Massachusetts, who made a motion to postpone the bill until a vote could be had upon his substitute. As efforts have been made to

create the belief that this motion proceeded from hostility to Kentucky, and from *jealousy of the South*, it is worthy of note that the motion for postponement was seconded by Mr. Tucker, of South Carolina, and was supported by every southern man present except the Virginia delegation; and that then the substitute itself was carried by the votes of all the states, including Virginia, Mr. Brown himself remaining silent, and Mr. Yeates, of New York, voting in the negative. That substitute, which exhibits the just, fair and conciliatory spirit of Congress, and of its northern members whose motives were aspersed by John Brown;—which so concisely states the facts and motives that influenced the wise action, and expresses so clearly the unanswerable logic of the situation, is as follows, viz :

“Whereas application has been lately made to Congress by the Legislature of Virginia, and the district of Kentucky, for the admission of the said district into the Federal Union, as a separate member thereof on the terms contained in the acts of the said legislature, and in the resolutions of the said district relative to the premises. And whereas, Congress having fully considered the subject, did on the third day of June last resolve that it is expedient that the said district be erected into a sovereign and independent state, and a separate member of the federal union, and appointed a committee to report an act accordingly, which committee on the second instant was discharged—it appearing that nine states had adopted the constitution of the United States, lately submitted to conventions of the people.

And whereas a new confederacy is formed among the ratifying states, and there is reason to believe that the State of Virginia, including the said district, did on the twenty-sixth of June last, become a member of the said confederacy.

And whereas an act of Congress in the present state of the government of the country, severing a part of said state from the other part thereof, and admitting it into the confederacy, formed by the articles of confederation and perpetual union, as an independent member thereof, may be attended with many inconveniences, while it can have no effect to make the said district a separate member of the federal union formed by the adoption of the said constitution, and therefore it must be manifestly improper for Congress assembled under the said articles of confederation to adopt any other measures relative to the premises, than those which express their sense that the said district as a separate state be admitted in the Union, as soon as circumstances shall permit proper measures to be adopted for that purpose :

*Resolved*, That a copy of the proceedings of Congress relative to the independence of the district of Kentucky, be transmitted to the Legislature of Virginia, and also to Samuel McDowell, Esquire, late president

of said convention, and that the said legislature and the inhabitants of the district aforesaid be informed, that as the constitution of the United States is now ratified, Congress think it unadvisable to adopt any further measures for admitting the district of Kentucky into the federal union as an independent member thereof under the articles of confederation and perpetual union; but that Congress thinking it expedient that the said district be made a separate state and member of the Union, as soon after proceedings shall commence under the said constitution, as circumstances shall permit, recommend it to the said legislature, and to the inhabitants of the said district, so to alter their acts and resolutions relative to the premises, as to render them conformable to the provisions made in the said constitution, to the end that no impediment may be in the way of the speedy accomplishment of this important business."

Had it been deemed proper to add ought to this cogent reasoning and just conclusion, it might truthfully have been stated, that both the acts of Virginia had unmistakably evinced her determination, that the district should not be taken from under her authority until provision had been previously made for its admission into the Union; and that the unavoidable inference remained, that it was equally her will, now that she had entered into the new Union, that the same condition should apply as to Kentucky's admission into it; that recognition of the independence of Kentucky and her admission into the confederation would neither have admitted her into that new Union, to provide for which the Congress of the confederation had no power, nor have imposed upon the State thus created any obligation to seek such admission; that admission into the new Union could only be obtained by the States of the confederation by ratifying the Constitution, against which the large majority of the Kentucky delegates to the Virginia convention had voted, and to which an overwhelming majority of her people were known to be opposed; and that the only effect of receiving her then into the fast declining confederation would have been to have soon left her free from all political bonds to the United States, an independent and sovereign State, separated from them by the barriers of the Alleghanies, at liberty to make her own treaties and to form alliances wheresoever she listed;—an almost certain prey to the

Briton, who still held with strong hand the military posts in the north, or to the Spaniard, whose cannon commanded the banks and mouth of the Mississippi, whose minister at New York was even then intriguing with the western delegate in Congress, and whose governor of Louisiana had already bought Kentucky's most brilliant and most influential citizen.

Of this determination by Congress, Colonel Brown admits, that it was a "right conclusion," that the "logic of the situation was all with the substitute moved by Mr. Dane, of Massachusetts." "This substitute," Colonel Brown informs us, "was temperate and conciliatory in language, perfectly fair in its statement of the facts, and it embodied a series of explanations and reasons that were indisputably sound." For this substitute, every southern delegate in Congress, except John Brown, who was silent, voted. That he "held his peace" is explained by his shortly after urging the people of the district to declare independence and assert sovereignty, without regard to the act of Virginia or to the assent of Congress. By this step Kentucky would have been placed, so far as the act itself could have been made effective, outside of the confederation, as well as outside of the Union of the Constitution. This "wise action" of Congress was represented by John Brown in Littell's pamphlet, "to have been owing to the malign influence of an eastern politician, whose talents for intrigue have become famous throughout the civilized world" (probably meaning thereby the able and patriotic Jay). "The conduct of Congress," he declared, referring to Dane's substitute, which his grandson so highly commends, and for which his colleagues voted, "on the application of the district, manifested the existence of some sinister political design." He explained that this sinister design was to give up to Spain the right of navigating the Mississippi, and to oppose the progress of the west and the creation of new States therein, though he knew that the same Congress had most emphatically repudiated the sinister design which he attributed to it, and had already made provision for the creation of new States

in the west. This was a repetition of one of the scandalous misrepresentations which Washington so bitterly condemned, and which was resorted to by William Grayson, in the Virginia convention, in his frantic endeavors to defeat the ratification of the Constitution, to inflame the Kentucky members of that body, and to prevent the establishment of a government whose laws the demagogues could no longer with impunity defy.

To Oliver Pollock, of whose intimate association with the Spaniards and interest in the trade with Louisiana and the west he had knowledge,—to Oliver Pollock, John Brown communicated “in confidence” his determination “to return home, and, on his arrival, to call for a general assembly of his fellow-citizens, in order to proceed immediately to declare themselves independent, and to propose to Spain the opening of a commercial intercourse with reciprocal advantages.” Pollock disclosed to Miro this intention, which Brown declared to him. The Intendant wrote to his court, under date of November 3, 1788, that Valdes, the Spanish Minister for Foreign Affairs, might “rest assured, that Brown, on his arrival in Kentucky, finding Wilkinson and his associates disposed to surrender themselves up to Spain, or at least to put themselves under her protection, will easily join them.”\* The “in-

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\* “Oliver Pollock, a citizen of Philadelphia, who arrived here three days ago, in a vessel from Martinique, has disclosed to me that Brown, a member of Congress, who is a man of property in Kentucky, told him in confidence that, in the debates of that body on the question of the independence of that territory, he saw clearly that the intention of his colleagues was, that Kentucky should remain under the jurisdiction of Congress, like the county of Illinois, and that a governor should be appointed by them for that province as for the other; but that, as this was opposed to the welfare of the inhabitants of Kentucky, he was determined to return home, (which he did before Pollock’s departure from Philadelphia), and, on his arrival, to call for a general assembly, of his fellow-citizens, in order to proceed immediately to declare themselves independent, and to propose to Spain the opening of a commercial intercourse with reciprocal advantages; and that, to accomplish this object, he would send to Pollock the necessary documents, to be laid before me and to be forwarded to your excellency. He requested Pollock to prepare me for it in anticipation. Your excellency will, therefore, rest assured that Brown, on his arrival in Kentucky, finding Wilkinson



dependence" which John Brown thus announced his purpose to urge Kentucky to declare, was not simply independence of Virginia, but of the confederation and of the new Union as well; for, neither under the articles of the one nor under the constitution of the other, could a State make any treaty or form any alliance, commercial or otherwise, with a foreign power.

The confidential interview with Pollock was evidently after John Brown had ascertained from Gardoqui the nature of the instructions he had received from Madrid in the preceding March, as the direct result of the memorial of Wilkinson, which had been forwarded to Spain in September, 1787, and of the urgent advice of the gifted Navarro, that no time should be lost in the adoption of measures necessary to populate Louisiana *and to procure a separation of the west from the Union*.<sup>\*</sup> It was discerned by statesmen at Madrid that the republican institutions of America were inimical to those of Spain, and they foresaw that the growth and extension of the Union would ultimately endanger the Spanish possessions of Louisiana, Texas and Mexico. Faithful to his instructions to labor for the dismemberment of that Union, and anticipating the action of Congress, Gardoqui took occasion "to culti-

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and his associates disposed to surrender themselves up to Spain, or at least, to put themselves under her protection, will easily join them, and it is probable, as Wilkinson has already foretold it, that, next spring, I shall have to receive here a deputation appointed in due form. I acted toward Pollock with a great deal of caution, and answered him as one to whom had been communicated some new and unlooked-for information, giving him to understand that I could not pledge to him my support before seeing the documents he expected." [Miro's dispatch to Valdes, Nov. 3, 1788. Gayarre, page 222.]

<sup>\*</sup> "Don Diego Gardoqui, about the month of March last, received from his court ample powers to make with the people of this district the arrangements he might think proper, in order to estrange them from the United States and induce them to form an alliance with Spain. I received this information, in the first place, from Mr. Brown, the member of Congress for this district, who, since the taking into consideration of our application to be admitted into the Union has been suspended, entered into *some* free communications on this matter with Don Diego Gardoqui." [Wilkinson's letter to Miro, February 12, 1789. Gayarre, page 241.]



vate the friendship of the aforesaid Brown, and to introduce such topics as he (I) thought would produce good results" for the accomplishment of the scheme of disunion he had been ordered to prosecute. In those frequent interviews held prior to and after the decision of Congress, Gardoqui "touched upon those obstacles imposed by our treaties with other nations, which forbade us according any extension of favor to his section of country *while pertaining to the United States,*" and "artfully insinuated that *only themselves could remove the difficulty*, inasmuch as *if separated they would* afford excuse for regarding them as an interior district without maritime designs, and perhaps we could devise some plan for adjusting the markets so much needed in our own possessions." The wily Spaniard was too polite, even had he not been too circumspect, to at once bluntly tell the listening statesman from the west, that his Catholic majesty, warned by the most astute of his counsellors of the perils to be apprehended from the future vigor of the young giant, if time and room were given for its development, was intent, above all other things, on dismembering the Union, and strangling republican liberty in its germ. Nor did he explain in detail, that one great motive of the Spanish diplomacy in refusing to listen to any suggestion that the United States had a right to navigate the Mississippi, was to use that matter as its most valuable aid in accomplishing its design of disunion. But he did inform Mr. Brown, as he had all along informed Jay, that this right on the part of the United States would never be admitted by Spain. And, however his suggestions of treason to the world's hope of freedom may have been veiled by the pretext, that treaties with other nations prevented the extension of this privilege to the people of Kentucky so long as they continued a part of the Union; but that, if Kentucky would separate from the Union, then those treaties might be evaded on the ground that, as an interior state, she was without maritime ambitions;—still, Gardoqui intended to give and did give Mr. Brown distinctly to understand, and the member of Congress fully understood, that so long as Kentucky

remained a part of the Union, the privilege of navigating the Mississippi would never be granted to them by Spain. He was given to understand, too, and did understand, that if Kentucky would first withdraw from the Union, then, and not until then, upon that fundamental condition precedent, and upon no other, Gardoqui was authorized to negotiate with the state, thus separated from and independent of the Union, for the extension of that privilege to her people. There was no room for misunderstanding Gardoqui's proposition, nor did Brown misapprehend Gardoqui's object. As the words fell from the lips of the Spaniard he "carefully observed" the expression of Brown's countenance, and it "seemed to him (me) that he (I) could discern the satisfaction it gave."

Brown promised to consider the proposition, and to have further talk with Gardoqui upon the subject. He carefully revolved the proposition in his own mind, viewing it in its relations to the future of the Kentucky people, and, beyond doubt, in its probable bearings upon his own fortunes. Then, several days after the interview in which he had given Gardoqui his promise, he sought the latter at the Minister's own residence. There he renewed with the Spaniard the discussion of the interesting topic. Gardoqui then "repeated the same and other observations"—becoming more direct and bolder as Brown evidently prepared for capitulation. It is scarcely a mere fancy, that the Spaniard drew an alluring picture of the profits and wealth to be reaped for the Kentucky people by the prospective commerce with Louisiana and the rich islands of the gulf, to which they were invited. Due appreciation of the good manners which distinguish the Castilian gentleman forbids the belief that the Minister suggested pecuniary or other personal reward to Mr. Brown as the result of successful efforts by him to promote the design disclosed; yet it is scarcely possible that no such consideration found a lodgment in Brown's own mind. He expressed himself "as quite satisfied and obliged" to Gardoqui for the offer which the latter had made to him. And he "admitted, *in confidence*," that he had, by a messenger,

already announced to his constituents the action of Congress, and that he had "communicated to them the *favorable disposition* he had discovered" in Gardoqui to grant the navigation of the Mississippi as the price of their separation from the Union.

He further assured Gardoqui that, as a consequence of the information he had forwarded to his constituents of the "good disposition he had discovered" in the Spanish minister, he hoped to "communicate matters of importance productive of benefit to that country." By this he meant the Spaniard to understand, and Gardoqui did so understand, that he hoped to soon communicate to Gardoqui that the district had declared her independence, assumed sovereignty and had withdrawn from the Union, as Gardoqui desired, so as to entitle her people to the "*benefit*" of the promise Gardoqui had made. He did not forget to tell the Spaniard that a convention would be held in Danville in July—the month in which their conversation was held,—and "that he expected it would resolve upon the erection of an independent State,"—which could only be done by violating all the conditions of the act of the Virginia Assembly, and, as the Congress had made no provision to admit the State so erected, would have disconnected it equally from the confederation which was about to die and the Union which was in process of accouchement. It was thus alone he could have hoped that any "*benefit*" would accrue to the people of Kentucky from the "favorable disposition he had discovered" in Gardoqui. He told Gardoqui, that he would leave New York the 1st of August, and that he would arrive in Kentucky in time to "inform" his constituents of the proposals made by Spain, and to "aid in what he had discussed" with the Spanish envoy. "On taking his leave," the sanguine Mr. Brown enthusiastically "thanked me (Gardoqui) for himself and in the name of all the country (Kentucky), which would be under lasting obligations to me,"—for having offered the navigation of the Mississippi, which had been obstinately refused to the United States, as a bribe to Kentucky to cut adrift from the Union and

its destinies! Eve, as she looked with fascinated eye upon the hateful head and deadly coils of the arch enemy of man, did not more easily nor more eagerly succumb.\*

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\*Subjoined is the full text of Gardoqui's dispatch of July 25, 1788, as copied from the "Political Beginnings," page 146, viz.:

"In my dispatches of 18th April, I had the honor to inform your excellency of that movement which the District of Kentucky had renewed in consequence of the consent given by Virginia (of which it forms a part) to its recognition and admission by Congress as a sovereign, independent state. The matter was agitated vigorously of late, and a committee named, composed of one member from each state, and afterwards upon consideration (as the order of the day) in a general session of Congress, it was agreed that the demand was just; though in view of the various circumstances of the time, it was referred to the new government.

"This determination was very distasteful to those who promoted the separation of the district, and particularly so to Mr. John Brown, a landed proprietor and resident in that District, who was interested in that matter, among others, as member in Congress. Finally the business was passed over to the new government, in which the State of Virginia will be included as part, because of her consent to join the confederation, given before the fourth of the present month. Foreseeing some of these occurrences, I took occasion during the past year to cultivate the friendship of the aforesaid Brown, and to introduce such topics as I thought would produce good results.

"Our friendship gradually increased and my sentiments naturally made an impression on him, inasmuch as they touched upon those obstacles, imposed by our treaties with other nations, which forbade us according any extension of favor to his section of country while pertaining to the United States, artfully insinuating that only themselves could remove the difficulty; inasmuch as if separated they would afford excuse for regarding them as an interior district without maritime designs, and perhaps we could devise some plan for adjusting the markets so much needed in some of our possessions.

"I carefully observed his appearance as I told him this, and it seemed to me that I could discern the satisfaction it gave. He said he would reflect upon it, and would see me and talk at leisure upon the subject. Several days passed and he came to this house, where a few days since we had a long conversation in which we renewed the subject, and I repeated the same and other observations. He seemed quite satisfied and obliged to me, and admitted, in confidence, that he had, by a messenger who had left some days before, communicated to his constituents the decision of Congress concerning the separation, referring to the favorable disposition he had discovered in me, and, in short, that he hoped to communicate matters of importance productive of benefit to that country. He told me, in conclusion, that this month the convention would meet, and that he expected it would resolve upon the

John Brown was fresh from these conferences with the Spanish minister when he made to Oliver Pollock the "confidential" declaration of his purpose, which, as it appears from Miro's dispatch to his Court, Pollock in turn shortly after repeated to Miro, and which was identical with that related by Gardoqui. The very nature of these conferences excludes from the probabilities the suggestion of Colonel John Mason Brown, that Madison, or some other member of the Virginia delegation, was present thereat, and places that intimation among the vain and empty imaginings of the author. And the very

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erection of an independent state; that he expected to leave this place the 1st of August, and that he would arrive in time to inform and aid what he had discussed with me, for he deems it a very fit and important subject for consideration, and for the present he thanked me for himself and in the name of all the country, which would be under lasting obligation to me. This, your Excellency, is another element of this arduous business, in which I believe that now more than ever it behooves us to take occasion to make sure for ourselves without incurring resentment of others. I beg that your Excellency will condescend to inform me if this has the approbation of his majesty, and that the elevated understanding of your Excellency will direct me, so that if any sudden occasion should occur I may meet it effectively and without clash, which I confess seems difficult. Your Excellency is aware that the power his majesty has designed to confer on me mentions the 'United States,' and will serve to direct me if occasion offers to do any thing within its scope.

"I think we need not be disturbed by the English intrigues for obtaining the friendship of that District, because its inhabitants well know how infinitely important to them is communication and friendship with their neighbors of the Lower River who have that which they need, and the port which naturally pertains to their country.

"It is more than likely that the before mentioned member will again see me before he departs, and I will not lose an opportunity of forwarding affairs or of informing your Excellency of what may have occurred. In the meantime I conclude, again submitting myself to the orders of your Excellency, and praying that God may guard the life of your Excellency many years.

"New York, 25th July, 1788. Most Excellent Sir, I kiss the hands of your Excellency.

"Your most obliged and obedient servant,

DIEGO DE GARDOQUI."

letters\* of Madison which he cites, *but does not quote*, for his bold assertion that Gardoqui had "quite clearly broached a proposition that Kentucky should be abandoned to Spain," to Madison; and that Gardoqui "had conversations of *similar import*" with Madison and Mon-

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\* In a note at the bottom of page 14 of the Centennial Address, Colonel Brown says: "Madison, under date 19th of March, 1787, writes very fully to Jefferson concerning the agitation existing in the western country, and *Gardoqui's plan of offering right of navigation*, if Kentucky would join Spain. (The Madison Papers, vol. 2, page 622)." There is not a line nor a word in the letter cited to furnish the shadow of a warrant for Colonel Brown's statement. Mr. Madison informed Jefferson that "A late accidental conversation with Gardoqui proved to me *that the negotiation (Jay's) is arrested.*" . . . "But although *it appears that the intended sacrifice will not be made*, the consequences of the intention and the attempt are likely to be very serious." . . . "I have credible information that the people living on the Western waters are already in great agitation, and are taking measures for uniting their consultations. (This had reference to the movement of the Committee of Western Pennsylvania, and anticipated the circular of Brown, Innes, Sebastian and Muter.) *The ambition of individuals will quickly mix itself with the original motives of resentment and interest.* (Madison seems to have understood human nature, and to have anticipated its operations upon John Brown, Hary Innes and Benjamin Sebastian.) Communications will gradually take place with their British neighbors. *They will be led to set up for themselves* (that was what Hary Innes threatened to do in his letter to Governor Randolph) to seize on the vacant lands, to entice emigrants by bounties and an exemption from federal burdens, and in all respects play the part of Vermont on a large theatre. It is hinted to me that British partisans are already feeling the pulse of some of the western settlements. Should those apprehensions not be imaginary, Spain may have equal cause with the United States to rue this unnatural attempt to shut the Mississippi. Gardoqui has been admonished of the danger and, I believe, is not insensible to it, though he affects to be otherwise, and talks as if the dependence of Britain on the commercial favors of his court would induce her to play into the hands of Spain." This is the only mention made of Gardoqui in the letter, and from the beginning to the end of it the name of Kentucky is not mentioned, nor is there a single expression from the beginning to the end of the letter which can be construed as alluding to Kentucky other than those contained in these quotations. It contains not one word which could possibly have suggested to Colonel Brown that Gardoqui had proposed to Madison a "*plan of offering right of navigation if Kentucky would join Spain.*" That plan was never proposed nor suggested by Gardoqui to Madison. He did formally and officially propose it to John Brown, a year later, and John Brown promised to "aid" in promoting that plan.

roe, to that in which he proposed to John Brown that Kentucky should withdraw from the Union in order to secure the navigation of the Mississippi: furnish the most explicit contradiction to Colonel Brown's statement, which they show to have been an invention, without even the quality of ingenuity to commend it. While Colonel Brown's positive and most venturesome allegation, that Gardoqui did not claim John Brown as won over by him, is absolutely refuted by the words of Gardoqui's dispatch, which he reproduces in the "Political Beginnings," that Brown said he deemed Gardoqui's proposition as "fit and important for consideration" and that he would return home in time to "inform and *aid* what he had discussed with me."

In his "Political Beginnings" Colonel Brown publishes what purports to be memoranda made by John Brown of his testimony before the legislative committee which investigated the charge against Sebastian in 1806;—which memoranda represent John Brown to have stated that he had *informed* Mr. Madison of Gardoqui's proposition when it was made. The official report of the testimony which John Brown gave in that case, does not, however, confirm the memoranda; but, on the contrary, is strong *prima facie* evidence that the statement which appears in the alleged memoranda is untrue. But were the memoranda correct, and the deposition signed by John Brown himself in error, as to what he then testified; and were the alleged testimony also true, it would prove that Mr. Madison was not *present* at the conference between John Brown and Gardoqui. For, if he was *there* and heard it, why should John Brown have *communicated* to Mr. Madison what he had heard from Gardoqui's own lips in John Brown's presence? If Colonel Brown believed the memoranda to be authentic and its statements true, it results that he could have had no faith in his own argument that Madison was present at and participated in the conference,—the very nature of which forbids the thought that Colonel Brown's suggestion could be correct.

The statement made in the "Beginnings," that John



Brown, after his conference with Gardoqui, "now knew unmistakably from the lips of the Spanish minister that nothing but a pretext, such as would evade the complications of an old diplomacy, was sought for permitting the people of the west to enjoy the natural advantages of their geographical position," possesses greater merit for its faultless grammatical construction than as a candid relation of the facts. The official dispatch of Gardoqui, which appears in the "Beginnings," and the official communications of Navarro and Miro to their court, which are excluded therefrom, unfortunately combine to prove that the reference to the "old diplomacy," as a reason why the right of navigating the Mississippi from its source to its mouth which Great Britain had acquired in 1763, and which the United States had acquired by the revolution, could not be conceded to them, was the "pretext;" while the real aim of the Spaniards, Diplomats and Intendant, was to divide the Union, and that the Mississippi was the means by which they sought to tempt or drive Kentuckians to disloyalty. When this purpose was disclosed to John Brown by Gardoqui, it appears from the dispatch of the latter, that Mr. Brown deemed the matter "fit for consideration," and promised to "aid" in what had been proposed to him.

The "Beginnings" continues: "It was now definitely admitted that trade through the Mississippi would be 'winked at' until a formal international treaty could be concluded, if only some *excuse* like the *declaration* of a new state could be presented as a palliative to Spanish pride of opinion." But the facts with which Colonel Brown was familiar show, that Spain had refused, and at that very time continued to persistently refuse, to make any treaty with the United States which admitted even by implication their right to that navigation, or one which did not explicitly abandon that navigation below our own boundaries. The expression which fell from Gardoqui, "*that in case of a treaty* (which should abandon our *right* to the navigation) trade through the Mississippi and other channels would be winked at," was in a conversation with Mr.



Madison more than a year before he made his proposition to John Brown, and was not one by which he or his court were bound. In the meantime, as the result of the advice of Navarro, and of the intrigue with Wilkinson, he had received explicit instructions to exert himself to separate Kentucky from the Union. The "excuse like that of a declaration of a new state" which he sought, was that of a state separate from the Union, whose position would drive her to seek an alliance with the government of the Inquisition. And *that* was what John Brown knew unmistakably from Gardoqui's own lips, and *that* was the position in which he agreed to "aid" in placing Kentucky.

## CHAPTER XI.

JOHN BROWN WRITES LETTERS TO COLONEL McDOWELL, MUTER AND OTHERS, SUPPRESSING THE REASONS ASSIGNED BY CONGRESS FOR ITS ACTION, AND ASSIGNING SINISTER MOTIVES THEREFOR.—HIS “SLIDING LETTER” TO McDOWELL—HE WITHHOLDS FROM McDOWELL THE FACT THAT A SEPARATION FROM THE UNION WAS THE PRICE DEMANDED BY SPAIN IN RETURN FOR HER PROPOSED FAVORS—HE REVEALS HIMSELF MORE FULLY IN A LETTER TO MUTER—HIS BROTHER, JAMES, AFTERWARDS DENIES THAT HE EVER WROTE SUCH A LETTER AND TRADUCES JAMES M. MARSHALL FOR STATING THAT HE HAD—IN 1806, JOHN BROWN SUPPRESSES THE LETTER TO MUTER, AND PRETENDS THAT IT GAVE THE SAME ACCOUNT OF THE GARDOQUI OVERTURE AS WAS GIVEN BY HIS LETTER TO McDOWELL—IT DISAPPEARS FROM THE FILE OF THE GAZETTE—THE BROWNS ALL FIGHT SHY OF IT—COLONEL BROWN PUBLISHES IT IN A MUTILATED FORM—IMITATES THE PRESTIDIGITATING OF HIS GRANDFATHER.

In his secret conference with Gardoqui, as appears from the dispatch of the latter to his court, John Brown “admitted, in confidence, that he had by a messenger who had left New York some days before, communicated to his constituents the decision of Congress concerning the separation,” and had referred to the proposition made to him by Gardoqui. It seems certain that he sent by that messenger a number of letters other than the one received by Judge Samuel McDowell, but to whom they were addressed, or what were the exact terms used in those other letters, can not now be ascertained. The only letter which it can now be proved that he sent by that messenger \* was the letter received by Colonel McDowell, who had

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\* There were rumors at the Danville convention of July, 1789, of letters which had been received other than the one addressed to Colonel McDowell. These rumors did not refer to the letter written to Muter, which was not received until the *fall* of 1788. The one addressed to McDowell was received *before* the 28th of July, 1788, on which day the convention met. It must have been written and forwarded *immediately*

been the stated president of all the previous conventions, save that presided over by Fleming, and whom he correctly calculated would be chosen to the same position by that about to assemble. He expected and intended his letter to McDowell to reach that venerable gentleman on the eve of the assembling of the convention, which it did; and to make certain of this wrote and transmitted it at once. He also expected, as he informed Gardoqui, that, as an effect of that letter, the convention "would resolve upon the erection of an independent state," in defiance of the conditions expressed in the act of the assembly and in contempt of the decision and advice of Congress. But one newspaper was then published in Kentucky, which received intelligence of movements on the Atlantic coast only after long delays. Their Congressman was the medium upon whom the people naturally and necessarily depended for correct information of measures affecting their interests which were before the body of which he was a member. It was manifestly and peculiarly his duty to have transmitted to that convention information not only of the action of Congress upon their application, but the *reasons* assigned by Congress for that action. But, not satisfied with merely *suppressing* those reasons, "which were indisputably sound," and which were so well calculated to convince, and conciliate and soothe and assure, John Brown *substituted* therefor *reasons of his own*, which attributed this just action to jealous animosity to the west

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after the action of Congress on July 3d, and the making of a direct proposition by Gardoqui, and *before* the conference described in the latter's dispatch. The letter to Muter was dated the 10th of July, 1788, was not received until the fall, and was not probably sent by the same messenger. Colonel Marshall wrote to Washington that he had read "*some*" of Brown's letters, which referred to more than *one*. Muter wrote that he "*knew* that *letters* similar to that to me had been received much earlier, even previous to the sitting of the convention in the month of July, of that year, and that a letter, or a part of a letter from him was read in convention." This shows beyond doubt that he wrote other letters than those addressed to McDowell and Muter. But they were suppressed by his friends, and it was denied they were written.

and to sinister designs, as he afterwards did in the Littell pamphlet. The motives he ascribed to Congress were calculated to inflame and exasperate. They were intended to precipitate the revolutionary separation from Virginia, which he told Gardoqui he expected. By this course Kentucky would have been placed in readiness to embrace the proposals made to him by Gardoqui, which he afterwards obsequiously thanked the Spaniard for having made. The precise terms of that letter to McDowell were never made public. In its body no mention was made of Gardoqui's overture. But he contrived a "sliding letter," written on a separate piece of paper, and marked "confidential," which he inclosed in the other; and which was in these words:

"In a conversation I had with Mr. Gardoqui, the Spanish minister, relative to the navigation of the Mississippi, he stated that, *if the people of Kentucky would erect themselves into an independent state, and appoint a proper person to negotiate with him, he had an authority for that purpose, and would enter into an arrangement with them for the exportation of their produce to New Orleans, on terms of mutual advantage.*"

The fundamental condition precedent, annexed by Gardoqui, and understood by Brown, that this "*independent state*" must be *separate from and independent of the Union*, as well as of Virginia, was not disclosed in this letter to the stern and vigorous McDowell. It will be perceived that, instead of explicitly and precisely stating the conditions under which Spain was ready to open the Mississippi to Kentucky, in this letter to Colonel McDowell the prudent Mr. Brown left a bridge over which to retreat in case McDowell should repel the proposition of disunion. That bridge was to have been the same paltry pretense behind which he sought to shelter himself in the Littell pamphlet in 1806: That what was meant by an "*independent state*" was, a state separate from and independent of Virginia, but yet a member of the Union. The ambiguous phrases employed in the "*Political Beginnings*,"\* by

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\* "*Political Beginnings*," page 150.

an accomplished master of the art of circumlocution, show that the same construction is even now sought to be placed upon Gardoqui's dispatch.

With the weak and unstable Muter, who had been so greatly under the influence of himself and Innes, and under that influence had signed the circular of March 19, 1787;—with Muter, Mr. Brown felt secure in being more explicit. The letter to Muter, was dated July 10, 1788, and in its lines John Brown himself stands revealed. In that letter he alleged, that the majority of the committee to which the application of Kentucky and the act of the assembly had been referred "could not be prevailed on to report a bill for the admission of Kentucky into the Union, *because they were opposed to that admission.*" At the same time he *suppressed* the unanswerable reasons assigned by Congress why they had ceased to have any rightful authority to grant the request, and for referring the application to the new government which had then been established; and *suppressed* also all the conciliatory expressions in favor of admitting Kentucky into the new Union, and the cordial and hearty advice that the district should get all things in readiness to be received into that new Union at the earliest practical moment. He referred to the refusal to receive Kentucky as if it had been the action of the "Eastern States" only; assigned as *their* reason, that Vermont or Maine was not brought forward at the same time, and expressed the opinion that the eastern states *never would* assent to the admission of Kentucky except in that contingency; emphatically affirmed, that "*the jealousy of the growing importance of the western country, and an unwillingness to add a vote to the southern interest are the real causes of opposition;*" and wound up with the assertion that these causes would "*continue to exist*" to a certain extent even under the new government. To give consistency to these animadversions upon the motives of the eastern states, to whose jealousy and ill will he ascribed the action, he carefully *suppressed* the fact that the delegates of every southern state present, except those of Virginia, had unanimously voted to postpone the bill

in order to take up Dane's substitute; and that the delegates from Virginia, saving himself alone, had then joined with the other southern states in passing the substitute itself! As presented by Mr. Brown, the situation for Kentucky was, indeed, gloomy.

After this dismal outlook had been set forth, Mr. Brown proceeded to say that, the question then presented to the district was, whether it would continue its connection with Virginia, "or to declare its *independence* and proceed to form a constitution of government;" to abide by the law, obtain a new act of the assembly, and apply for admission into the new Union, or to act without law, resort to revolution, and assume sovereignty, which would not only separate them from Virginia, but would leave them without other political bonds. "'Tis generally expected," he wrote, "that the latter will be the determination, as you have proceeded too far to think of relinquishing the measure, and the interest of the district will render it altogether inexpedient to continue in your present situation until an application for admission into the Union can be made in a constitutional mode, to the new government." More urgent advice could not have been given them to do what he had told Gardoqui he expected them to do; and which would have been the first step necessary in the plan he had promised Gardoqui to return home and "aid." "This step," he continued, "will, in my opinion, tend to preserve unanimity, *and will enable you to adopt with effect such measures as may be necessary to promote the interests of the district.*" Viewed in the light cast upon it by the dispatch of Gardoqui and the statement of Pollock to Miro, what were the "measures" this declaration of independence and assumption of sovereignty would have enabled them to "adopt," and what was the nature of the "interest of the district" which their adoption would promote, are unmistakably discerned. But to make assurance doubly sure, and to unfailingly indicate the measures to be adopted and the interests to be promoted, in the very next sentence he himself pointed them out by disclosing the proposition of Gardoqui. He wrote:

"In private conferences I have had with Mr. Gardoqui, the Spanish Minister, at this place, I have been assured by him in the most explicit terms, that if Kentucky will declare her independence, and empower some proper person to negotiate with him that he has authority, and will engage to open the navigation of the Mississippi, for the exportation of their produce, on terms of mutual advantage. BUT THAT THIS PRIVILEGE NEVER CAN BE EXTENDED TO THEM WHILE PART OF THE UNITED STATES, by reason of commercial treaties existing between that court and other powers of Europe. As there is no reason to doubt the sincerity of this declaration, I have thought proper to communicate it to a few confidential friends in the District, WITH HIS PERMISSION, not doubting but that they will make a prudent use of the information, which is in part confirmed by dispatches yesterday received by Congress from Mr. Carmichael, our minister at that court, the contents of which I am not at liberty to disclose." \*

This leaves no room for cavil. The man who runs may

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\* The following is the full text of the letter referred to, viz:

"NEW YORK, July 10, 1788.

"Dear Sir:—An answer to your favour of the 16th of March was together with several other letters, put into the hands of one of General Hammar's officers, who set out in May last for the Ohio, and who promised to forward them to the district; but I fear that they have miscarried, as I was a few days ago informed that his orders had been countermanded, and that he had been sent to the garrison at West Point.

"Indeed I have found it almost impracticable to transmit a letter to Kentucky, as there is scarce any communication between this place and that country. A post is now established from this place to fort Pitt, to set out once in two weeks, after the 20th inst., this will render the communication easy and certain. Before this reaches you, I expect you will have heard the determination of Congress relative to the separation of Kentucky, as a copy of the proceedings has been forwarded to the district by the secretary of Congress a few days ago.

"It was not in my power to obtain a decision earlier than the 3d instant. Great part of the winter and spring there was not a representation of the states sufficient to proceed to this business, and after it was referred to a grand committee, they could not be prevailed upon to report, a majority of them being opposed to the measure. The eastern states would not, nor do I think they ever will, assent to the admission of the district into the union, as an independent state, unless Vermont, or the province of Maine, is brought forward at the same time.

"The change which has taken place in the general government is made the ostensible objection to the measure; but the jealousy of the growing importance of the western country, and an unwillingness to add a vote to the southern interest, are the real causes of opposition, and I am inclined to believe that they will exist to a certain degree even under the new government to which the application is referred by Congress. The question which the district will now have to determine upon will be: Whether or not it will be more expedient to continue the connection with the



read. The *independent state* to which alone the privilege would be granted must be a state out of the Union. This

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State of Virginia, or to declare their independence and proceed to frame a constitution of government? 'Tis generally expected that the latter will be the determination, as you have proceeded too far to think of relinquishing the measure, and the interest of the district will render it altogether inexpedient to continue in your present situation until an application for admission into the union can be made in a constitutional mode, to the new government.

"This step will, in my opinion, tend to preserve unanimity, and will enable you to adopt with effect such measures as may be necessary to promote the interest of the district. In private conferences which I have had with Mr. Gardoqui, the Spanish minister, at this place, I have been assured by him in the most explicit terms, THAT IF KENTUCKY WILL DECLARE HER INDEPENDENCE AND EMPOWER SOME PROPER PERSON TO NEGOTIATE WITH HIM, that he has authority, and will engage to open the navigation of the Mississippi, for the exportation of their produce, on terms of mutual advantage. BUT THAT THIS PRIVILEGE CAN NEVER BE EXTENDED TO THEM WHILE PART OF THE UNITED STATES, by reason of commercial treaties existing between that court and other powers of Europe. As there is no reason to doubt the sincerity of this declaration, I have thought proper to communicate it to a few confidential friends in the district, with his permission, not doubting but that they will make a prudent use of the information which is in part confirmed by dispatches yesterday received by Congress from Mr. Carmichael, our minister at that court, the contents of which I am not at liberty to disclose.

"Congress is now engaged in framing an ordinance for putting the new government into motion; it is not yet complete, but as it now stands the elections are to be made in December, and the new Congress to meet in February; but it may undergo alterations. Ten states have ratified—this state is now in session—what the result of their deliberations will be, is as yet doubtful; two-thirds of the members are opposed, but 'tis probable they may be influenced by motives of expediency.

"North Carolina will adopt; time alone can determine how far the new government will answer the expectations of its friends; my hopes are sanguine, the change was necessary.

"I fear, should not the present treaty at Muskingum prove successful, that we shall have an Indian war on all our borders. I do not expect that the present Congress will in that case be able to take any effectual measures for our defence.

"There is not a dollar in the federal treasury which can be appropriated to that purpose. I shall leave this place shortly, and expect to be at the September term.

"I have enjoyed my usual good state of health, and have spent my time here agreeably.

"I am, with great esteem, your humble servant,

J. BROWN."



Kentucky would have been had Mr. Brown's advice been heeded or had his wishes prevailed. For there is no one so simple as to believe that the man who thus communicated the proposals of Spain, *with the permission* of her minister, did so only to those whom he supposed would *reject* the offers; nor can it be credited that the man who thus urged others to take the first step necessary in the programme, in order that Kentucky might be in a position to "adopt such measures as may be necessary to promote the interest of the district," by securing the privilege of navigating the Mississippi, was not himself in favor of all the other measures necessary to promote that interest and to secure the tempting prize extended in the Spaniard's seducing hand.

Muter did not receive this letter until the fall of the year in which it was written. Its nature and the peculiar circumstances of the public situation rendered it inexpedient to give it general publicity. In his perplexity and anxiety, however, he exhibited it to Colonel Thomas Marshall, whose neighbor he had become on removing from Danville to what was then Fayette, and is now Woodford county. At the time he exhibited it to no one else, but spoke of its contents to such men as Colonel Crockett, Colonel John Allen, and Colonel Edwards.\* When the letter

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\* James Markham Marshall having published an extract from Brown's letter to Muter, which he had obtained from the latter for publication, Muter addressed to the *Lexington Gazette* a letter in which he explained the circumstances under which he had consented to the publication. This letter was published in the *Gazette* on the 4th of September, 1790. It was republished in the *Western World*, in the *Palladium* and in the *Gazette*, in September, 1806. After briefly stating the publication which had been made by James M. Marshall, and his own unwillingness to be understood as having been actuated by a desire to injure John Brown in consenting to the publication, Muter wrote, viz:

"It has always been a fixed principle with me that a private or confidential letter ought not to be communicated to any person whatever; but, this extends not to cases where, I think, *the public interest and safety may be concerned*; in such cases my duty as a citizen with me supercedes every other consideration.

*Mr. Brown's letter to me came to hand in the fall of 1788, and I knew that letters from him, similar to that to me had been received much earlier,*

was received by Muter, James Markham, the third son of Colonel Thomas Marshall, had not come into the district.

even previous to the sitting of the convention in the month of July of that year; and that a letter or a part of a letter from him was read in convention. When a *total separation was in contemplation, I was of opinion that Mr. Brown's letter had weight in the convention in inducing people to think such a measure was right.* That, however, was a measure I was warmly opposed to; and therefore I considered it my indispensable duty to do every thing in my power to prevent it from taking place; and for that purpose, *as I knew Colonel Marshall thought as I did with respect to it,* I showed the letter to him, and consulted with him as to the steps it was necessary to take to effect the purpose both of us had in view, and withal to bring it about."

[In republishing an extract from this letter of Muter, Littell, in his defense of Brown and Innes, in 1806, omitted the foregoing, which made disclosures it was desired to conceal. But what follows was published in Littell's "Narrative," viz:]

"As a letter from Mr. Brown had been read in the convention (that of July, 1788.), (though, *as I was not a member,* I did not know certainly, whether the whole or a part only had been read, or whether it had, as is customary, lain on the table for the inspection and consideration of the members,) I conceived it to be no breach of confidence to show his (Brown's) letter to me, to Colonel Marshall, or to speak of it when it became the subject of conversation, even if the principle mentioned above, had been entirely out of the question. *Soon after Mr. James Marshall's arrival in the district,* he told me he had been informed I had received a letter from Mr. Brown, containing matters of public concern, mentioned a part of the contents and expressed a wish to see it. I did show it to him, because I thought it better that he should form his opinion of its contents from what he read himself, than that he should judge of them from what was repeated to him from memory, where possibly there might be some mistake that might mislead him. After this, when I supposed *the business of a TOTAL separation to be quite at an end,* I never showed the letter to any person whatever; and I even avoided as much as possible, making it the subject of conversation."

The letter then went on to tell the circumstances of the duel between Brown and Marshall which had been on the *tapis*. "When I was in Mercer in July last, I was told by two gentlemen at different times, that Mr. Marshall, when questioned by Mr. James Brown, with respect to his having spoken to the injury of his brother's character, he said that he partly formed his opinion of his brother's conduct from what was contained in the letter above alluded to. . . . I had not, however, before I received the information above mentioned, ever heard that Mr. Marshall had reflected on Mr. Brown's conduct, from the time he became a candidate. A few days before I set off for Fayette August Court, Mr. Marshall came to my house, and requested that I would furnish him with Mr. Brown's letter to me, or that I would carry it to

But soon after he did come into it he spoke of the letter to Muter, manifested his knowledge of a part of its con-

Lexington. I told him I would carry it with me, and accordingly did so. When I got to Lexington I found it to be the common talk of the town, that a duel was to be fought, between Mr. Marshall and Mr. (James) Brown. On Wednesday forenoon Mr. Marshall applied to me for the letter. I refused to give it to him, but told him I would attend at any time and place to produce it, if necessary. He answered that, that probably would not do, because when he wanted to make use of the letter, there might be neither time nor opportunity to send for me; I told him then that I would give him an extract from the letter, which I should accompany with my reasons for giving the extract, and for ever showing the letter at all. I was anxious to prevent a duel from taking place; and particularly so to do every thing in my power for that purpose, without publicly appearing in the business; and from circumstances I was led to believe, that, an accommodation, might probably take place and that the production of the letter or an extract from it might lead to it. I, therefore, furnished Mr. Marshall with an extract from the letter, accompanied with a statement of my reasons for doing so, and restricted him to show it to Mr. Brown only, or to one or two more gentlemen, with his approbation. I left town on Tuesday. On the Friday evening following, Mr. Marshall came to my house, and requested that, I would consent to the publication of the extract in his possession. I told him I was averse to doing so, because I did not wish to injure Mr. (John) Brown, nor even to appear in the business at all. He urged, that he had been accused of telling a falsity, and that he had no other way, *as matters stood*, of vindicating his character from a charge so injurious to it. I told him then that I would give him an answer in the morning. In the morning I told him, I wished and hoped the business could be done without the publication he requested, and that I was willing to come forward when properly called upon and disclose every thing in my power; but on his urging that, as the matter was now become public, nothing but the publication could vindicate his character, with respect to his having told a falsehood concerning the letter, I consented that in case of absolute necessity, he might publish the piece I had furnished him with, in which the extract was contained; but that he must publish the whole if he published at all."

As this explanation of Muter was published in 1790, before the establishment of Kentucky as a state, and while the matter of a separation from Virginia was still pending, the reader will perceive that the expression: "After this, when I supposed the business of a total separation to be quite at an end" could only have referred to the business of a separation from the Union as well as from Virginia. It exhibits, beyond question, Muter's construction of Brown's letter, and of the business to which it related, and which he had, with Colonel Marshall, been a main factor in defeating. His solicitude for Brown's reputation is apparent in his

tents, and requested to see the letter itself. Deeming it better that the younger Marshall might form his opinion from a personal inspection rather than from hearsay, Muter complied with his request. In 1790, James Markham Marshall, then a young man of twenty-six, became a candidate for Congress against John Brown, the incumbent, and during the canvass he charged Brown, (who was at the time in New York), Wilkinson and others, with having conspired to illegally separate Kentucky from Virginia and the Union, and then, as an independent state, to form an alliance with Spain. Violent exception to this was taken by James Brown, the younger, bolder, more talented, and far more amiable and lovable brother of his antagonist. In reply to the demands of the latter for the grounds of this accusation, James Markham Marshall referred to John Brown's letter to Muter as the circumstance on which he had mainly formed his opinion and based his charge; and he then described its contents. By fiercely denouncing and vehemently denying Marshall's statement, that his brother had written such a letter, James Brown, by plain implication, conceded that if Marshall's premises were correct his conclusion was sound. But the issue of veracity made by Brown gave rise to a bitter controversy which culminated in an arrangement for a duel—which was never fought. Marshall's persistent demands that the letter should be made public as the only means then left of establishing the truth of what he had said, which had been impeached by James Brown, finally secured the consent of Muter to the publication of an extract therefrom, which was made in the *Lexington Gazette* in August, 1790. Its contents gave to the younger Marshall the public and triumphant vindication that he desired.

It is noteworthy that no demand for the publication of the letter itself, to show that its contents were not as rep-

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guarded and mild expressions, but the truth appears under all the gloss.

The context of the card indicates that his consent to the publication of the extract from Brown's letter was obtained after the duel had been "declared off."

resented, was made by James Brown. A century later a grandson of John Brown, while denouncing Muter as "incurring the contempt of violated confidence" in giving the letter "to Marshall as material for a political campaign," (which is not correct) concealed from the public the circumstances that made the publication at once justifiable and necessary.\* When, in the controversy which broke out in 1806, the letter was desired for publication by those who had revived the charges made by James M. Marshall, the issues of the *Lexington Gazette* for the whole period covering the publication of the letter, the controversy between James Brown and James M. Marshall, and the pending duel between them, in 1790, were found to be conveniently missing from the files of the paper.†

The only copy of the *Gazette* containing the letter then known to be in existence was in the possession of Alexander Scott Bullitt. However, the *Western World* worried and hectored poor Muter, until he republished it in the *Palladium*, in 1806, together with a letter he had published in 1790, which explained the circumstances of his having exhibited Brown's letter to Colonel Marshall and his furnishing the extract to James M. Marshall, and accompanied both with another letter amplifying that explanation. Yet John Brown deemed it inexpedient to admit his letter to Muter into the pamphlet he had induced and paid Littell to write in his defense. The Muter letter was excluded from that pamphlet, which nowhere admits, but evades, and tries to cover up, the fact that the overture of Gardoqui to Brown distinctly contemplated the withdrawal of Kentucky from the Union; and disingenuously and deceitfully endeavors to produce the impression, that a letter of Colonel Marshall to Washington, which represented the letter of Brown to Muter as stating the separation of Kentucky from the Union to be a condition required by Spain as the price of her own promised

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\* Political Beginnings, page 175.

† The only known file, the one kept by Bradford, who published the *Gazette*, is in the *Lexington* library, to which the curious reader is referred for corroboration of the above.

concession, was "as unfavorable as possible," and the creation of prejudice and jealousy.

The editor of the *Western World* possessed a glimmering of the truth, but was wanting in accurate knowledge of details. In one of his earlier editorials, he published an erroneous statement concerning the letter of Brown to Colonel McDowell. This drew from the latter a card, in 1806, in which he corrected the error, and gave from memory the *ipsissima verba* of the "sliding letter" he had received from Brown. From it the statement in Brown's letter to Muter, which made known and emphasized the condition of separation from the Union required by Spain, had been carefully omitted by the facile Brown. The letter to McDowell was the play of Hamlet, with the part of the noble Dane left out. So the adroit Mr. Brown published in the Littel pamphlet McDowell's account of the "sliding letter" Brown had written *to him*, and thus vouched for its accuracy; then, *suppressing* the letter he had actually written to Muter, and, protesting that Colonel Marshall had given a prejudiced account of that letter, he complacently assured the generous and confiding public that the letter to Muter "*contained the same account of the conference with Gardoqui that the letter of Colonel McDowell did.*" Exultingly snapping his fingers in the face of his adversary, and glorying in this highly intellectual achievement, he then and thus dismissed the Muter letter and the whole subject of the conference with Gardoqui; "of this conference I trust enough has been said."

Had the letter to Muter really been the *same* as the letter to McDowell, *it* would have been published in the pamphlet. Because it was *not* the same, but explicitly stated that the privileges of navigating the Mississippi would *never* be granted to Kentucky whilst a part of the Union, the trick was resorted to of suppressing *it*, publishing the "sliding letter" to McDowell which did not contain that statement, and of falsely pretending that the accounts of the conference with Gardoqui given in the two letters were identical. As Hary Innes published in that pamphlet a pretended copy of his letter to Randolph

from which he omitted the inconvenient words "Revolt from the Union," which were in the original;—so John Brown published therein the card of McDowell, which did not contain the words, "*But that this privilege can never be extended to them while part of the United States,*" which was in the Muter letter, and asserted that the accounts given in the two letters were the same. These suppressions were not accidental; probably suggested by Brown, they were concerted between the friends, and had a common object. The grandson of Brown discovered the manipulations, understood their nature, evidently admired, and certainly imitated them. If this incident has no other historic value, it is most significant as illustrating the methods employed by the "first Senator from Kentucky" to conceal himself from an inconvenient scrutiny.



## CHAPTER XII.

THE JULY CONVENTION—THE “SLIDING LETTER” OF BROWN TO McDOWELL SHOWN TO INNES, BUT TO NO ONE ELSE—INNES CONNECTS IT WITH WILKINSON’S ENGAGEMENT WITH MIRO, AND HEARTILY APPROVES—COMMUNICATES ITS CONTENTS TO THE FAITHFUL—A RESOLUTION TO VIOLENTLY SEPARATE FROM VIRGINIA WITHOUT AN ACT FOR THE PURPOSE IS PROPOSED BY EITHER WILKINSON OR WALLACE, AND IS ADVOCATED BY BOTH, AS WELL AS BY INNES AND SEBASTIAN—THE EVASION PRACTICED BY WALLACE IN REGARD THERETO—WILKINSON’S ACCOUNT OF THE CONVENTION AND THE OBJECTS OF THE RESOLUTION—THE MISSTATEMENTS OF COLONEL JOHN MASON BROWN.

Before, but on the eve of the assembling of the convention, at Danville, on the 28th of July, 1788, Colonel Samuel McDowell, the stated president of all these several conventions, received the official notification of the action of Congress on the application of the district, which had been forwarded by that body. At the same time, and most probably by the same messenger, he received the letter of John Brown, which ascribed that action to unworthy and hostile motives; inclosed in which was the “*sliding letter*,” written on a detached piece of paper and marked “confidential,” which only partially stated the proposition of Gardoqui. No quorum having assembled on the first day, the official paper was not communicated to the convention until the 29th. The non-confidential letter of Brown to Colonel McDowell was then also read. But the “confidential” “sliding letter” concerning the conference with Gardoqui was not read in the convention, nor was it exhibited by McDowell to any one but Innes,\*

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\* In the case of *Innes v. Marshall*, Colonel McDowell’s deposition was taken in behalf of Innes, who propounded this interrogatory to the witness:

“6th Q. Was not that part of his (Brown’s) letter to you relative to his conversation with the Spanish minister, Gardoqui, generally known to the members of the convention who voted their thanks to Mr. Brown at the time such vote was taken?”



nor spoken of by him during the convention to any other human being. Innes had been previously informed by Wilkinson of his arrangement with Miro for the separation of Kentucky from the Union, and had entered heartily into the scheme, as stated in the letter already quoted from Wilkinson to Miro. He thus understood at once the full and true nature of the Gardoqui overture, which was but imperfectly disclosed in the "sliding letter" to McDowell, and naturally associated it with the scheme of Wilkinson. Delighted, he exclaimed to McDowell: "It will do, it will do," and forthwith proceeded to impart the contents of the confidential "sliding letter" to those whom he supposed could be trusted.\*

That a feeling of keen disappointment pervaded the entire convention was but natural. That this should be greatly aggravated by John Brown's letter, ascribing the

To this McDowell replied:

"Answer: I never showed it to any other person than the plaintiff during the sitting of that convention, that I recollect, or spoke of it to any other person during that convention; and my reason was, it was headed 'confidential.'"

The answer was a sore disappointment to Innes, as it made it clear that, if any other member than himself had any information of the "sliding letter," it was given by *him*, in his efforts to secure immediate action cutting off from Virginia, and placing Kentucky out of the Union. Colonel John Mason Brown found it convenient and advisable to exclude this question and answer from the "Political Beginnings."

\* In the examination of McDowell, the defendant put the following question to him.

"Question: About the time of the convention (of July) aforesaid sitting in Danville, were you present with the plaintiff, Innes, when the subject of erecting Kentucky into an independent state, and placing her on the footing with Vermont;—and did the plaintiff approve of the measure, saying:—it will do, it will do: or words to that effect?"

"Answer: About the time alluded to, upon showing the plaintiff, Innes, the paper enclosed in Mr. Brown's letter, he said: it will do, it will do—and an allusion was made to Vermont, which would be the one with respect to Kentucky—if erected into an independent state."

This testimony shows the idea entertained by McDowell. But John Brown knew from Gardoqui that the proposition was to separate Kentucky absolutely from the Union, and form an alliance with Spain; and while it was not declared in the "sliding letter," and that to Muter had not then been received, Innes knew from Wilkinson what the real purpose was.

action of Congress to hostile motives, was exactly what he had calculated and the object for which he had written. In the convention of 1786-7, when the news of the new act of separation was received, in spite of efforts to inflame which were made by some, "the momentary vexation yielded to a sense of duty and a love of peace." But in this of July, 1788, in which Wilkinson was ceaselessly active in the discharge of his engagement with Miro, and John Brown, though absent in person, was present in the effect of his letters misrepresenting the motives of Congress, "there were," according to Marshall, "observable the most deep-felt vexation, a share of ill temper bordering on disaffection to the legal course of things, and some strong symptoms of assuming *independent government*." This was a very moderate and conservative expression of the situation, and of the efforts then made to precipitate the first step in the plan arranged by Wilkinson with Miro, and which John Brown had promised Gardoqui to return home and "aid." The navigation of the Mississippi was pressed into the argument "in favor of completing the constitution and organizing government without delay." And all the time Wilkinson was there, dropping obscure hints that the commerce which Congress could not secure was awaiting Kentucky if she would only stretch forth her hand to take it; and, as it is certain that the contents of the "sliding letter" were also known at least to the faithful, one can readily conceive the activity of Innes. It was clearly understood by all, that every legal power of the convention to frame a constitution or to organize government had terminated by the failure of the conditions expressed in the law itself. And that this was fully comprehended by those who most zealously favored a resort to revolution could not be more plainly demonstrated than it was on the face of this resolution, which was proposed :

"A resolution, declaring that the powers of this convention so far as depends on the acts of the legislature of Virginia were annulled by the Resolutions of Congress, and resolving that it was the duty of this convention as the representatives of the people to proceed to frame a constitution of government for this district, and to submit the same to their

consideration with such advice relative thereto as emergency suggests, was read.

Ordered that the said resolution be committed to a committee of the whole convention."

The official report of the proceedings of the convention, by Thomas Todd does not give the name of the author of this resolution. But during the controversies of 1806, it was attributed by some to Caleb Wallace, while others alleged that it was offered by Wilkinson and seconded by Wallace. The testimony of Governor Greenup in the case of *Innes v. Marshall* is confirmatory of those who attributed it to Wallace.\* It was moved by one and seconded

\* In that case the following questions were propounded to and answers given by Greenup, who was a witness for Innes, viz :

"6th: Did you in July, 1788, hear a motion made and advocated by either James Wilkinson, Caleb Wallace, Benjamin Sebastian, or the plaintiff, to separate the district of Kentucky from the State of Virginia and the United States, and form a connexion with the Spanish government?

"Answer: I did not hear such a motion from any person.

"7th: Did you in the convention of November, 1788, hear such a proposition as stated in the preceding interrogatory made and advocated by either of the above named persons or John Brown, who was then also a member?

"Answer: I did not. I think Mr. Wallace submitted a resolution for proceeding to frame a constitution and submitting it to Congress, without applying again to the State of Virginia, observing that she had already given her assent to the measure and it would save time, but it was overruled."

The question related to a resolution embracing, in direct terms, three propositions: violent separation from Virginia; withdrawal from the Union; and a connection with Spain. Humphrey Marshall certainly had never stated that a resolution in those terms had ever been presented by the men named or anyone else. While Greenup denied, and truthfully denied, that a resolution in those terms had been offered, he was honest enough to admit that one had been presented for separating from Virginia and assuming sovereignty, contrary to the act of the assembly and without another application to Virginia, and he was possibly correct in naming Wallace as its author. He was mistaken, however, as to the time when the resolution was offered by Wilkinson or Wallace, who was a member of the July convention, when it was presented, and was not a member of that of November. His recollection was also at fault concerning the terms of the resolution, which contained no suggestion to "*submit the constitution to Congress.*" And he was probably equally at fault in regard to the remarks made by Wallace in that connection.

by the other and was advocated by both. It was a proposition to violently separate from Virginia, and to assume independence and sovereignty, as had been urged by Wilkinson in 1786. Its adoption, had it possessed validity, and could it have been carried into effect, would have separated Kentucky from Virginia and from the Confederation, without connecting her with the new Union, would have left her free to form alliances where she chose, and would almost necessarily have placed her in antagonism with Virginia and the Union. Sebastian and Innes, to whom his arrangement with Miro had been communicated by Wilkinson, and Wilkinson himself, acted in concert with Wallace in endeavoring to procure the passage of this resolution; \*—a fact which indicates what it was hoped the passage of the resolution would accomplish.

That the construction placed upon the resolution at the time by its opponents was, that it was intended to separate Kentucky not only from Virginia, but also from the United States; and that it was combatted on that ground, is conclusively proved by the oath of Judge John Allen, of Bourbon, who was one of the purest men and ablest lawyers of that day in the district. † The testimony of Judge Allen was corroborated by that of James French, a delegate from Madison, who, while he could not recollect “that any member *directly* advocated a separation from the United States,” [it was not good policy to do that], yet did recall that “the tenor of argument on one side was for patience under the privation of the trade of the

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\* Judge John Allen, of Bourbon, testified, in the case of *Innes v. Marshall*, that he was a member of the convention of July, 1788; that, “There was a party in the convention of that date who were in favor of creating Kentucky into an independent government, and of organizing the same without an act of the Virginia assembly or of Congress for that purpose, and Colonel Hary Innes was of that party;” and that “General James Wilkinson and Mr. Benjamin Sebastian were members of said convention and were both in favor of the separation,” as just stated.

† On cross-examination Judge Innes asked Judge Allen the following questions and received the following answers, viz:

“1st: In answer to the second interrogatory of the defendant, you state that there was a party in the convention of July, 1788, who were

Mississippi, and adherence to the United States; on the other, "that it was the design of the United States to restrict the western country, and to discourage its growth and population, by an interested and partial policy."

Mr. French stated that "Mr. Innes was a speaker, and among those who were declaring against the hostile policy of the United States to the western country;"\* that the course of Innes' "argument was that it was the design of the United States, more to curb than to protect the power of the western country," and he remembered that at the conclusion of one of Innes' speeches he said: "Mr. President, when I reflect on the treatment of the United States to this country, I feel, I can not tell how,—I feel, sir, like shedding blood." He was equally explicit as to the utter-

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in favor of erecting Kentucky into a separate and independent government without obtaining an act from Virginia or from Congress, and that the plaintiff was one who composed that party; name them and state whether they or either of them introduced any resolution in convention to that effect?

"Answer: General James Wilkinson, Benjamin Sebastian, Harry Innes, the plaintiff, Caleb Wallace, a member from Madison by the name of Adams, and I believe some others, who are not at this time recollected. General Wilkinson was the leader of this party. I can not recollect whether any resolution to the effect was offered, but it is strongly impressed on my mind that there was. The convention had been in session some days before I arrived there.

"Question by the same: To what intent did the proposition for a separation go, *i. e.*, was it a separation from the United States absolutely, or a separation from Virginia only, and then to become a member of the Federal Union?

"Answer: I understood the proposition then made, (and it has ever since been impressed on my mind,) that the separation proposed was to erect a government independent of the State of Virginia and of the United States."

This deponent thought the proposition, the effect, though not the terms, of which was as he stated, was brought forward by General Wilkinson, but stated circumstances tending to show he might have been mistaken as to that.

\* Question by the plaintiff: Did the plaintiff take an active part in the measure alluded to in the preceding answer; *i. e.*, did he advocate the measure in the convention?

Answer: I did consider the plaintiff as one of the principal men who advocated the measure, to the best of my recollection; *he did speak on the subject.*

ances of Caleb Wallace and Sebastian, as to their indulgence in the fiercest denunciations of the conduct of the United States to the west, as to the leadership of Wilkinson, as to the open declarations of George Adams, his colleague from Madison, in conversation, in favor of a separation from the United States, and that "the proposed object of those who were so much displeased with the conduct of the United States towards this country, as well as he could recollect, *was to obtain* the trade of the Mississippi—which they alleged was withheld from them by the United States; or, at least, that the United States had been grossly and intentionally negligent in procuring the trade of that river, considered by them as indispensably necessary to the welfare of this country." \*

In point of character these men were the equals of any other in the convention, and it has never been charged that they were the political rivals or personal enemies of any of the men whom their testimony condemns. If they are worthy of credit it can scarcely be said that the account given by Humphrey Marshall of the spirit and purpose by which Wilkinson, Sebastian, Innes and their followers were actuated, or of their personal utterances, was colored by prejudice and malignity.

But there are not wanting proofs from contemporary records that one of the issues raised in this convention was that of a separation from the Union. In a communication published over the signature "Cornplanter," (Dr. Ebenezer Brooks), in the *Lexington Gazette*, of September 13, 1788, the proposition is thus distinctly stated: "2nd. Whether a separation from Virginia and *unconnected with Congress* would be advisable." . . . "Fourthly, it is urged that a separation would speedily *procure us the free navigation of the Mississippi.*" . . . "When I set down to this business I intended to have said a few things on the subject of *assuming a separation independent of Congress,*" etc. A communication, which is attributed to James Morrison

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\* James French was an educated man, of strong sense, and the father of Judge Richard French, afterwards one of the most astute of the Democratic politicians.

in the marginal notes on the file of the same paper, published September 20, 1788, refers to the "*ill judged and intemperate proposition of two or three men in the late convention,*" and of the "*crude recommendations of that convention,*" by which the proposition of Wilkinson and Wallace, and its advocates, were intended. It is seen to be undoubtedly true, as stated in Marshall's History and reaffirmed by Butler, who wrote in opposition to Marshall, that the idea of disunion "was combatted in the public prints of the time," and must have been proposed. Nor is testimony wanting from the leader of this party in the July convention as to the purposes for which the resolution of Wilkinson and Wallace was proposed and urged. Under date of February 12, 1789, General Wilkinson wrote to Miro to inform the Intendant of his efforts and their failure. Referring to the action of Congress upon the application of the district, he said :

"From this proceeding of Congress it resulted that the convention was of opinion, that our proposed independence and separation from Virginia not being ratified, its mission and powers were at an end, and we found ourselves in the alternative, either of proceeding to declare our independence or of waiting according to the recommendation of Congress. This was the state of affairs when the Honorable Caleb Wallace, one of our Supreme Judges, the Attorney General Innes, and Benjamin Sebastian proposed a prompt separation from the American Union, and advocated with intrepidity the necessity of the measure. The *artifice* of Congress was exposed, its proceedings reprobated, the consequences of depending on a body *whose interests were opposed* to ours were depicted in the most vivid colors, and the *strongest motives* were set forth to justify the separation." [Gayarre, page 226.]

These "*strongest motives*" were the inducements held out by Spain!—the navigation of the Mississippi, which could be had only through disunion! But more convincing evidence still of the intended effect of this resolution thus introduced, advocated by Wallace, and urged by Wilkinson and Sebastian and their friend Innes; and, had it been adopted, of the measure it proposed: is the exceeding great care taken to exclude it from the Littell pamphlet. Other portions of the proceedings of the convention were published in that paper; but this resolution was carefully omitted.\* Nor is there the most distant admission in it,

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\* The resolution which was finally adopted by the convention was



that such a resolution was ever, at any time, offered. The editor of the *Western World* blundered in stating that it had been offered by Wilkinson and seconded by Wallace, in the *November* convention. His mistake was greedily seized upon. The proceedings of the *November* convention were obtained from Thomas Todd and were published in the Appendix to Littell; but that portion of the proceedings of the *July* convention which contained this resolution was suppressed. Great parade was made in the "*Narrative*" of the fact, that the official proceedings of the *November* convention showed that the resolution had *not* been offered at *that* meeting,\* and over the further fact that Wallace was not even a member of the *November*

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published at the time in the *Lexington Gazette*, but *this* resolution of Wilkinson and Wallace was *kept out of sight*.

\*The "*Narrative of the Political Transactions*," contains the following, referring to the statement that this resolution had been offered at the November convention of 1788:

"Here it was (in the November convention) that General Wilkinson read his treasonable memorial—here it was that Mr. Brown reported his treasonable conference—and here it was (as they say in their first number,) *that General Wilkinson made a treasonable motion that they should proceed to form a separate constitution independent of the approbation of Virginia*. The reader will see from the Journal, that Wilkinson made no such motion, and that the motion which he did make, so far from tending to so rapid a progress was of a retrograde tendency. Its object was not to proceed to do any thing, except to impart to the people at large the information which had been received by that body, and to await their future instructions. They say further, that this motion was seconded by Judge Wallace, now of the Court of Appeals. It is presumed that the falsehood of this assertion is sufficiently proved by showing that the motion was *never made*. But it could be proved by a thousand witnesses that Judge\*Wallace never seconded any motion whatever, which was made in that convention, for this plain reason, HE NEVER WAS A MEMBER OF IT. And as if these men were not satisfied with being contradicted by all kinds of testimony, oral and written, living and dead, they have themselves in their twelfth number, proved by Dr. Brooke, one of their own witnesses, that Judge Wallace had no seat in that convention. They say further, that this motion was warmly supported by all those members who were supposed to be engaged in the negotiation with Gardoqui. I shall leave the reader to determine whether a motion which *never was made* could be warmly supported, and to settle in his own mind what measure of confidence is due to men convicted of three palpable falsehoods in a single sentence."



convention ; while the fact that the resolution had been *offered* by Wallace, and *advocated* by Wilkinson, in the *July* convention, was concealed. And thus the mistake of the editor as to the time, and, possibly, as to the person who offered it, was branded as a malicious and baseless lie ;—when, as the reader will see, the only lie that was written in this connection was that which suppressed the official proceedings which showed that the resolution had been offered in July, concealed the fact that it was then presented by Wallace, and asserted that the “ *motion never was made.*”

Whether this resolution was offered or seconded by him, it was all the same, the bantling of Caleb Wallace, who was one of the men who paid for the writing and publication of Littell’s “ *Narrative.*” It interfered with the line of defense adopted by Brown and Innes (who also paid for the writing and publication) and Wallace in that production. And it naturally, and for the same reasons, shared the fate of Brown’s letter to Muter and of Innes’ “ *Revolt from the Union,*” in his letter to Randolph ;—*it was suppressed.*

In the deposition which Judge Wallace gave in behalf of his friend Innes, in the litigation with Humphrey Marshall, he replied to a misleading question propounded by the plaintiff, that neither he, nor Innes, nor Sebastian, nor Wilkinson, nor any one else had, in the July convention, offered or advocated a proposition to “ *separate Kentucky from Virginia and from the Union, and to form a connection with Spain ;*” which it was not alleged had been done in terms. But he found it prudent to omit to mention, that he had himself offered or seconded and advocated a resolution to assume independence and sovereignty, to form a constitution and establish an independent government, and to violently separate from Virginia, the effect of which would have placed Kentucky outside of the Union ; that in one breath he had denounced Congress, and in the next urged his own and Wilkinson’s measure as a means by which the navigation of the Mississippi could be obtained ;—all of which he had done if the evidence of good

and true men, whose own conduct did not need to be concealed, is to be believed. He deemed it fitting to say that, when the information of the action of Congress was received, "it was conceived by the members of the convention to be *unnecessary* and *improper* to proceed to accomplish the business for which they had been elected,"—which was to form a constitution and organize government;—leaving it to be inferred that this had been his own position, and concealing the fact that he had himself vehemently urged the convention to this "unnecessary and improper" proceeding. He had a splendid memory for things that nobody *did*; but in regard to what had actually been done by Wilkinson, Sebastian, Innes and himself, his mind was apparently a painful blank.

But while he could not remember this resolution, nor his own and other speeches in its favor; and while he could not, as he swore, even recollect whether Colonel Thomas Marshall was or was not a member of the July convention;—yet his memory, so singularly treacherous in other respects, was as singularly convenient in recalling, that, as he alleged, "about that time, or shortly before, this deponent heard Colonel Marshall express great dissatisfaction with Congress for having declined to decide on the application of the people of Kentucky to be erected into a separate state; and declared that he was clear for proceeding to form a constitution of government and establishing the district of Kentucky an independent state, and then apply for admission into the Union, not doubting but it would be received without further delay." So that, if one could receive without examination this remarkable statement of Judge Wallace, as to his wonderful recollection, which differed from that of any other human being as to Colonel Marshall's position and utterances,—*he*, who had offered or seconded and had urged the resolution, was in reality opposed to it as an "unnecessary and improper" proceeding; while Colonel Thomas Marshall, who, according to the concurrent testimony of all other contemporary witnesses, was, *in public*, one of the earliest and most pronounced of the opponents of this and all

similar revolutionary measures, was, in his *private conversations*, one of its staunchest advocates! Had this most convenient and swift of witnesses "remembered" that Colonel Marshall *was* a member of the convention, and, as such, had sanctioned this movement, his statement could and would have been easily contradicted by those who were present, which Judge Wallace knew. But the peculiar advantage of remembering *a private conversation* with a man whose tongue had been silenced by death was one of which Judge Wallace was not unmindful. The dead man whom he wronged could not challenge his injurious statement; and, though the alleged recollection was inconsistent with all that Colonel Marshall did or said in public, and utterly irreconcilable with the recollections of all others of his utterances to *them*, yet no living witness could disprove this ingenious recollection of Judge Wallace as to what Colonel Marshall had privately said to *him*.

Colonel John Mason Brown wished to have it appear, not simply that Colonel Marshall was inconsistent, but that he had a motive for his inconsistency; that, with a full knowledge of Gardoqui's proposition, he had, as a member of the July convention, *voted* for the resolution of Wilkinson and Wallace; that afterwards, and before the November convention, he had himself received and favorably entertained a proposition from Dr. Connolly, to withdraw Kentucky from the Union and place her under a *British* protectorate; and that his opposition to the policy of John Brown during the canvass preceding the November convention, as well as his opposition in that convention, was influenced by Connolly and prompted by his desire to aid the latter. That for this object he opposed and defeated the patriotic efforts of Brown to secure another *immediate* application by Kentucky for admission into the Union!

To this line of argument, and to Colonel Brown's wish to shelter his grandfather behind the skirts of Colonel Marshall, the public is indebted, that the resolution concocted between Wilkinson and Wallace, which was suppressed by the Littell pamphlet, appeared in the "Political

Beginnings.” For that reason the motion which Wallace completely ignored in his deposition, and which the “Narrative” solemnly asserted “was never made,” is reproduced by Colonel Brown; and Wallace’s statement of his alleged recollection of what Colonel Marshall had said twenty-five years before is put by the side of the resolution;—then, Colonel Brown informs his readers, that \* “It is worth noticing at this point that even Thomas Marshall, afterwards so strenuous in his denunciation of every one who approved the immediate formation of a constitution and an *immediate application to Congress*, was then in perfect accord with Wallace as to the *legality*, propriety, and expediency of immediate action.” That Wallace himself did not regard the action which he and Wilkinson proposed as *legal*, is proved by the language of the resolution, which declares “that the *powers* of this convention, so far as depends on the acts of the Legislature of Virginia, were *annulled* by the resolutions of Congress.” The power which he proposed to exert was the same revolutionary power which Wilkinson had contended, in 1786, resided in the people of the district, and which was above *law*. The resolution itself also shows that it did not embrace (as it is certain neither its author nor its advocates contemplated) the idea of an “*immediate application to Congress*,” nor of any application to Congress. Neither Wallace, nor Wilkinson, Sebastian, nor Innes was so illogical as to have expected that the Congress which had, for the most cogent reasons, just declined to act upon the application which had been made under all the forms of law and with the expressed sanction of Virginia, would grant another application made in an irregular manner and without the concurrence of the state from which the resolution proposed violently to separate the district.

In the same train of reasoning, Colonel Brown alleges that “the general sentiment of prominent men *in the convention* was, as *Wallace deposed*, that uttered by Colonel Marshall” in favor of immediate action as above stated.

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\* Political Beginnings, page 177.

But Wallace *did not* thus depose. He did not say that Colonel Marshall *was* a member of the convention, but, on the contrary, could not remember whether he was or was not a member. He did not intimate that *any* one in the convention held the opinion stated by Colonel Brown. He even concealed the fact, that such a resolution as that which Wilkinson and he offered and seconded was never offered in the convention, as well as the further fact that it had received his own approval. What he did say was, that the opinion he ascribed to Colonel Marshall "*was believed* to be the sentiment of *several* respectable citizens of the district, and of *some* who resided in other parts of the State of Virginia;" and further, that "it was conceived by the *members of the convention* to be *unnecessary and improper* to proceed to form a constitution and organize government."\* Colonel Brown had read and understood the deposition to which he referred.

One of the amusing features in all this mass of error is the contradictions between the positions taken in the defense of John Brown and Innes, in 1806, and those assumed by their latest and most deliberate and also most utterly reckless champion, in 1890. In the Littell pamphlet no pretense was made that Colonel Marshall was a member of the July convention, nor that he favored the resolution of Wilkinson and Wallace. On the contrary, it was denied that the resolution was ever offered. It was not pretended then that he had ever given countenance to such a scheme, either publicly or in his private conversations. On the contrary, it was asserted in the communications of "Franklin," written by one of the intimates and confidants of Brown, Innes, Sebastian, Wilkinson, and Wallace, that Colonel Marshall had, from the beginning, and all along, *opposed* any separation from Virginia, even with the consent of the General Assembly; and that he had been equally hostile to every effort to obtain the navigation of the Mississippi, in any manner. He was held up as an enemy to the interests, growth and advance-

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\* Wallace's deposition, *Innes v. Marshall*, September 15, 1813.

ment of the district, and to the desire of its people for local self government. This was the slander which his family were *then* called on to repel. And the motive attributed to him for this hostility was that he feared to lose his office of surveyor if Kentucky was separated from Virginia and erected into a state of the Union. It mattered not to his malicious calumniator that, the year before, in 1787, Colonel Marshall had *resigned his surveyorship* in order to render himself eligible to a seat in the Virginia Assembly, to which he was elected and in which he served his constituents. The charge that he had opposed a legal separation from Virginia was effectually disposed of by Colonel Joseph Crockett, one of the heroes of Monmouth and of Yorktown.\*

Colonel J. M. Brown quotes largely from the deposition of Christopher Greenup in the case of *Innes v. Marshall*. He discovered that Greenup was in error as to the resolu-

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\* The subjoined is a copy of Colonel Crockett's letter to A. K. Marshall in refutation of the statement of "Franklin" referred to. It was appended to A. K. Marshall's letter, which is cited by Colonel Brown, and could not have been overlooked by him, viz :

*Jessamine County, October 3, 1806.*

DEAR SIR:—In answer to your note of to-day, I can clearly state that I was long and intimately acquainted with Colonel Marshall, and the offices of civility were freely exchanged between us. In the commencement of the plan for separating from Virginia, I was myself opposed to the measure, as probably premature, and the arguments of Colonel Marshall convinced me that a separation was a proper measure—he pointed out various reasons, and many arguments *in favor of a legal and constitutional separation*. I was in the convention of November, 1788, with Colonel Marshall, and knew he was opposed to a violent separation from the United States and took on that subject most decided grounds, but he was warmly in favor of a legal and constitutional separation. The charges of Franklin *are not true*.

I am, dear sir, respectfully,

JOSEPH CROCKETT.

ALEX. MARSHALL.

Colonel Crockett intended to be understood that Colonel Marshall was in favor of a "legal and constitutional separation" from Virginia. There could have been no such thing as a "legal and constitutional separation" from the United States. And that he was opposed to a "*violent separation*" from Virginia, which would also have "*violently separated*" Kentucky from the United States.

tion having been offered by Wallace in the *November* convention, but accepted as correct the recollection that Wallace was its author. He knew that the defense made of his grandfather, Innes, Sebastian, Wilkinson and Wallace, in the Littell pamphlet, suppressed the resolution, and asserted that such a "motion was *never* made." He detected the deceit. Whether his emotions were pleasant or otherwise at that detection, must have depended on whether he admired the cunning which he has imitated or felt contempt for the fraud disclosed to his view. While quoting Greenup as to the presentation and authorship of the resolution, he excludes from his book Greenup's statement, made in the same deposition, of his distinct recollection that he had heard Colonel Marshall express his *opposition* to the resolution he alleged to have been offered by Wallace, though this was not done as a member of the convention.\*

In his letter to Miro, of February 12, 1789, Wilkinson tells of the opposition made by Colonel Marshall and

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\* Humphrey Marshall propounded to Greenup the following questions and received the following answers, viz :

"Question 1st: Was there a party in Kentucky in 1788, who was for a separation of Kentucky from Virginia without an act of Virginia for that purpose, and were General Wilkinson, John Brown, Benjamin Sebastian, the plaintiff, Caleb Wallace and others of that party?

"Answer: I have stated in answer to the 7th interrogatory of the plaintiff, of a resolution or motion being stated to the convention to form a constitution without again applying to Virginia, and for the reason therein mentioned, but I know nothing of a party being formed for that purpose.

"2nd Q.: Were the late Colonel Thomas Marshall, the late Judge Muter, Colonel Joseph Crockett, Colonel John Edwards, and others in the convention of November, 1788, opposed to the party aforesaid, and in favor of a regular and legal separation?

"Answer: I can not say at this length of time whether all the gentlemen in the preceding interrogatory were present in November, 1788, but think they were. I knew of no party they opposed except it be the resolution or motion before mentioned. That resolution *I am certain* they were *opposed to*, and were in favor of again applying to the State of Virginia: this opinion *I have heard* most of the gentlemen express, as well as others who were also present."

Greenup was the witness of Innes, and was personally hostile to H. Marshall.



Muter, *before* the assembling of the July convention, to his plans, the first necessary step in which was to adopt this resolution of Wallace.\* In the "*Outline History*," published in Collins, McClung says of Colonel Marshall, that "his opposition to independence, contrary to law, was *early*, decided and uncompromising." In Littell no pretense was made, that Colonel Marshall had ever for a moment countenanced such a proposition, though the men who procured that publication were anxious to slur and to convict him of inconsistency. Flatly contradicted by Greenup, opposed by the statement of his own friend and leader, Wilkinson, refuted by Muter, repelled by Crockett, disputed by the recollections of every other contemporary witness, and utterly inconsistent and irreconcilable as the statement of Wallace is with every public act and utterance of Colonel Marshall, the accuracy of his alleged "recollection" of the private conversation of a dead man,

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\* In his letter to Miro, July 12, 1789, [Gayarre, page 225], Wilkinson asserted, that, when he sought to "prepare the ground for the seed to be deposited in it," by giving "an equivocal shape to his designs," he "found all the men belonging to the first class of society in the district, *with the exception* of Colonel Marshall, our surveyor, and Colonel Muter, one of our judges,, decidedly in favor of separation from the United States and of an alliance with Spain." While this gross exaggeration did much injustice to many excellent and patriotic citizens, there can be no sort of question that very many of the prominent men in the state did favor that movement. And without detracting from the merit, influence or importance of any of the men who stood by and abreast of them in their efforts to defeat it, it is sufficient to say that not one of them was more active or zealous than either Muter or Marshall. In his rage against "those two men" Wilkinson pretended to Miro, that "at first," they "expressed the same opinion with warmth," and had changed "from private motives of interest and personal pique;" that he "foresaw they would avail themselves of the opposition of some literary demagogues, who were under the influence of fear and prejudice." "*Nevertheless*," he wrote, "I determined to lay the question before the convention, and I took the necessary measures accordingly. *I was thus engaged until the 28th of July, on which day our convention met at Danville.*" The explicit statement that the hostility of Marshall and Muter commenced *before the July* convention was true. The statement that they had *at first* countenanced his views, and had turned against them from personal motives, was but the expression of spleen which the baffled conspirator always vents upon the men who thwart him, and to cover his own mortification at the disappointment of the hopes he had aroused in Miro, by representing the unanimity of the leading men in the plot.

twenty-four years after he asserted it to have taken place, may safely be challenged.

The resolution of Wilkinson and Wallace was defeated. A proposition was then made, that each militia captain should take the sense of his company upon the course to be pursued, and that the public action should be controlled by *their* decision. This also was defeated by the arguments of those who were opposed to an illegal separation, among the ablest and most conspicuous of whom were Colonel John Edwards and Judge John Allen. In a measure overawed by this determined opposition, the Wilkinson party finally succeeded in passing through the convention, which had no legal power whatever, a *recommendation* that the people should elect members to another convention to be held at Danville in the following November, and to continue in power until January 1, 1790; and that the people should *delegate* to their representatives in this convention "full powers to take such measures for the admission of the district, as a separate and independent member of the United States of America; and the navigation of the *Mississippi*, as may appear most conducive to those purposes; and also to form a constitution of government for the district and organize the same, when they shall DEEM NECESSARY; or to do and accomplish whatsoever, on a consideration of the state of the district, may, in their judgment, promote its interests." The powers the people were invited to commit to the convention were, indeed, as stated by Butler, all those ever wielded by a dictator—powers inconsistent with constitutional and organized governments.

The resolution of recommendation embraced a variety of topics. One was an application for admission into the Union. But those who framed the resolution knew that Kentucky coming in this way, without the consent of Virginia previously obtained, could not, without an infraction of the Articles of the Confederation and of the constitution, be received either into that Confederation or into the new Union; and it is thus evident that the question of applying for admission into the Union was

combined with the others solely because without it the others could not be carried. Another was the navigation of the Mississippi. But the authors and contrivers of the resolution knew that Spain alone controlled that question, and they knew also the price demanded by Spain for her favors. They were aware that Congress had not been able to obtain, and could not then obtain that navigation for the people of the district, while those people could not obtain it for themselves in any other way than by separation from the Union. Finally, the recommendation included any thing and every thing which the representatives elected to the coming convention might deem calculated to "*promote the interests of the district,*" the *first* and *greatest* of which *interests* these men had declared to be the navigation of the Mississippi, which the authors and advocates of the resolution were apprized could be obtained from Spain *on certain conditions*, which had been agreed upon between Wilkinson and Miro.

The debate which ensued upon this recommendation elicited expressions from, and developed views on the part of its advocates, which excited a just alarm among those to whom the intrigues with the Spaniard had not been revealed save by the vague innuendoes of Wilkinson. The publication of the resolutions passed by the convention did not allay or dissipate the well grounded apprehension of those who heard the debate, but increased it and spread it among law-abiding people. The public declarations for an alliance with Spain had not been explicit. But enough had been let fall by covert hints and insinuations, when associated with actions in this convention, to explain to some the mystery of Wilkinson's transactions at New Orleans and the consideration for which he enjoyed exclusive commercial privileges. Unable to defeat the recommendatory resolution in the convention, its opponents determined upon a vigorous opposition to the measures it foreshadowed, to be made through the press and upon the rostrum.

Among the resolutions passed by the July convention was one directing its president, upon the return of John

Brown to the district, to wait upon him, "and, in the most respectful terms express to him the obligations which this convention and their constituents are under to him for his faithful attention to their interests in Congress." This formal and courteous expression of thanks had been well earned by John Brown's *services in Congress*, which had really been at once attentive and faithful. *It had no reference to his conduct with Gardoqui*, which was not known to any member of the convention except as only partially declared in the "sliding letter," the contents of which were known only to McDowell, whose testimony shows that he misunderstood the character of the proposition; and to Innes, who, by the aid of the light cast upon it by his previous knowledge of Wilkinson's arrangement with Miro, understood it correctly; and to others to whom its contents were communicated by Innes. For this resolution of thanks which he had earned, the men who had, when they were informed thereof and understood its nature, the most severe and just appreciation of the turpitude involved in John Brown's conduct with Gardoqui, might have voted in good faith, without inconsistency, without rendering themselves justly amenable to the insinuation that when the vote was given they approved of that conduct, and were stultified by their subsequent condemnation thereof. The weakness of a bad cause was never more conspicuously manifested than by the attempts made in the Littell pamphlet, in the libel suit of *Innes v. Marshall*, and in the "Political Beginnings," to smirch those who knew of John Brown's "sliding letter," (which only partially recorded the Gardoqui overture) and yet voted an empty resolution of thanks to him for faithful services which had no relation to that overture, as if by that vote they had participated in Brown's offense, and were estopped from its condemnation. But were this argument as forcible as it is flimsy, still no shelter for Brown can be had in the alleged inconsistency of others. It has been seen that McDowell effectually exploded that weak defense; if the "sliding letter" was known to any one in the convention besides Innes and himself, it was

communicated to them by Innes, who had a motive for making known what McDowell treated as "confidential."

As the same sophistry is introduced by Colonel Brown even less regard is shown for the facts. He says: "The letter from *Brown to Muter* was known to Marshall and Edwards," when this resolution of thanks was passed; and he alleges, that "McDowell had its duplicate,"—which the reader knows McDowell did *not* have. Colonel Brown continues: \* "The estimate of those who knew of that letter [it does not certainly appear whether Colonel Brown referred to the Muter or to the McDowell letter, but, as he says that one was "duplicate" of the other, it does not matter], and its contents, and of the interview with Gardoqui was expressed in a resolution [the resolution of thanks to Brown] for which Muter and Marshall voted along with the other delegates." The official report of the proceedings does not state who voted for the resolutions; nor does it show *who* were the *members* of the convention; it gives the names of the president, McDowell, of the secretary, Todd, and of the chairman of the committee of the whole, Isaac Shelby, only. Its statement that the resolutions were "unanimously" carried does not indicate that every man in the convention voted for them, but only that no negative vote was cast or recorded. Colonel Brown had no authority whatever that either Muter or Marshall voted for that resolution. In his letter published in the *Lezington Gazette* in 1790, which was republished in 1806, and an extract from which, including this statement, was copied into the "*Narrative*" by Littell, Muter asserted that *he was not a member of the*

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\* Here Colonel Brown imitated the exploit of his grandfather. When the latter wished to conceal the real nature of the proposition of Gardoqui, and the character of the letter he wrote to Muter, he suppressed *that* letter, published McDowell's account of the "sliding letter," and pretended that the "letter to Muter gave the same account that the letter of McDowell did. The grandson, wishing to make as bad a case as possible for all who knew of the "sliding letter," and yet voted to thank John Brown *for his services in Congress*, publishes the letter to Muter, in a mutilated form, suppresses the McDowell letter, and says that the latter was the "duplicate" of the former.

July convention of 1788. In his letter of August 20, 1806, which accompanied the reproduction of the one just mentioned, and which was published in the *Western World* and in the *Lexington Gazette*, he reasserted: "I was a member of the convention of November, 1788, *though not of July, 1788.*" This is fully confirmed by Humphrey Marshall in his History. If the list of the members of that convention published by Collins was relied upon by Colonel Brown, it also proved to him that Muter was *not* a member. The writings of Colonel Brown exhibit his familiarity with all the records and publications which give emphatic and explicit contradiction to his own statements. He had no ground for rejecting their statements, nor any authority whatever for his own. And Muter asserted just as positively, that "*Mr. Brown's letter to me came to hand in the fall of 1788.*" The address of Muter to the people, which shortly followed the receipt of that letter, was dated October 16, 1788. Muter not having been a member of the July convention could not possibly have *voted* for the resolution. And a letter which was not received until the fall of 1788 could not have been known to Muter, Edwards or Marshall in the preceding July. The necessity for constituting Muter a member of the convention, and of placing in his hands a letter in July which he did not receive until more than a month later, was in order to give color to Colonel Brown's statement, that when, as he alleges, Colonel Marshall voted to thank Brown *for his services in Congress*, he knew of Brown's letter to Muter. It adds another example to many others, of Colonel Brown's extraordinary fecundity of inaccuracy.

It must have seemed very doubtful, to say the least, to Colonel Brown himself, whether his statement that Colonel Marshall was a member of that convention was any more true than was his assertion that Muter was a member, which is contradicted by all the records with which he was familiar. It is true that Colonel Marshall's name is given as a member in the inaccurate list published by Collins. But as that list showed him the untruth of his own statement that Muter was a member, the error of Collins will scarcely

serve as a screen for Colonel Brown. Collins also gave the name of John Brown, who was in Congress in New York, in the list of the members from Mercer. He did not obtain his statement from the official report of the convention, for the name of Marshall nowhere appears thereon. He was not misled by the deposition of Wallace, for *he* could not remember whether Colonel Marshall was or was not a member of the July convention. And he knew that Humphrey Marshall, who had personal knowledge and accurate recollection of the fact, had stated, in his History, that neither Muter *nor* Marshall were members of that convention. [Vol. I, page 298, edition of 1824.] The fact is that Colonel Marshall was no more a member of that convention than was Muter. There were but five members from Fayette, and those were James Wilkinson, Caleb Wallace, John Allen, and William Ward, whose names are given by Collins correctly, and Dr. Ebenezer Brooks, who was one of the "*literary demagogues*," whom Wilkinson complained of Colonel Marshall for having employed to defeat his project. It was Dr. Brooks who wrote over the signature of "Cornplanter." The fact that he was a member distinctly appears in the controversies of 1788 and of 1806. All the scenes pictured by Colonel Brown of Marshall and Muter as members of the July convention, and voting as such for measures which within a few weeks they publicly opposed and denounced, is merely an average specimen of Colonel Brown's wonderfully inventive genius.

Of a like nature with his statement in regard to their alleged vote for the empty resolution of thanks, is Colonel Brown's assertion that Muter, Marshall and Edwards were among the members acquiescing in the vote by which the recommendatory resolution was passed. It is not true that Colonel Marshall or Muter were members of the convention. And if the patriotic Colonel John Edwards sat silent while a resolution was passed which he had already resisted and was then powerless to defeat, it would no more indicate that he had acquiesced therein, or that he concurred in its policy, than that John Brown's "holding



his peace" when Dane's substitute was passed by Congress proved that *he* acquiesced therein or concurred in the postponement of the application he had presented. Not only is this entire line of argument utterly flimsy and fallacious, but the allegations made to sustain it are shown to be invariably untrue. Its sole importance is as an illustration of the methods employed in John Brown's defense.\*

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\* Col. Marshall, though not a member, was a spectator of the July Convention. Humphrey Marshall had been elected a member of the Assembly of 1788, as well as a member of the Virginia Convention of the same year which adopted the Constitution;—which was a sufficient reason why the elder Marshall was not at the same time a candidate for the July Convention. He was represented in the latter, however, by Dr. Brooks, who was the tutor of his children.

## CHAPTER XIII.

THE CANVASS PRECEDING THE NOVEMBER ELECTION OF 1788—TONE OF THE PRESS—MISREPRESENTATIONS OF THE MOTIVE OF CONGRESS—EFFORTS TO INFLAME THE PEOPLE—MUTER RECEIVES JOHN BROWN'S LETTER—EXHIBITS IT TO COLONEL THOMAS MARSHALL—ADVICE OF THE LATTER—MUTER'S ADDRESS—MUTER, CROCKETT, ALLEN, MARSHALL AND WILKINSON ELECTED—COLONEL BROWN'S MISSTATEMENTS CONCERNING MUTER AND MARSHALL—WALLACE IN AND AFTER THE CANVASS—LETTERS OF EBENEZER BROOKS—WILKINSON DESCRIBES BROWN TO MIRO—BROWN DISCLOSES GARDOQUI'S OVERTURE TO WILKINSON AND GREENUP.

Immediately upon the publication of the action of the July convention, in the *Lexington Gazette*, the alarm which was created found an utterance through the columns of that paper, sufficiently articulate to indicate the nature and depth of the apprehensions felt by the more reflecting. Before that convention, as stated by Wilkinson in his letter to Miro, of February 12, 1789, "the question of separation from the United States, although discussed with vehemence *among the most distinguished inhabitants of this section of the country, had never been mentioned, in a formal manner, to the people at large.*" It has been seen that an effort was made in that convention to separate from Virginia, and to assume independence and sovereignty without an act for the purpose, and without the assent of Congress, which, to the extent it could have been made effective, would have separated Kentucky from the United States. Wilkinson correctly represented the real and intended *effect*, though not the precise *terms*, of what *was* proposed and urged in that convention when he wrote to Miro, in the same letter to which reference has been made, that the "Honorable Caleb Wallace, one of our Supreme Judges, the Attorney General Innes, and Benjamin Sebastian *proposed a prompt separation from the Union*, and advocated with intrepidity the necessity of the

movement." That the purpose of the proposition was that of disunion, as was directly charged upon the leaders of the Wilkinson party from the rostrum, this and other letters of the leader of that party, clearly establish. The plan was not, however, distinctly developed and avowed in their communication to the people, by these projectors of the scheme of disunion and a negotiation with Spain, who feared the people might not *yet* be ready for its adoption. The question of a separation from the Union, and a Spanish alliance was still kept in the background. But a rejection of the advice of Congress, a violent separation from Virginia, (by which is intended a revolutionary separation), the framing of a constitution, the organization of government, the assumption of independence and sovereignty, without again applying to the General Assembly for its sanction, and without the assent of Congress, was the purpose openly declared and boldly advocated. The annunciation of this purpose was accompanied by such denunciations of Congress as the oppressor of western interests, by such heated charges that Congress was insincere in its cordial expressions of a desire that Kentucky should become a state of the Union, and by such angry insistence that the opposition to her admission as such would be continued under the new government, as precluded the idea, that the men who made these arguments and uttered these denunciations contemplated an irregular separation from Virginia and the assumption of statehood only as a means of hastening the admission of Kentucky into the Union by a Congress which they declared was hostile to that admission. Their embarrassment proceeded from their uncertainty of the people. The recommendatory resolution passed by the July convention, and under which that of November was called, urged the people, by virtue of some kind of inherent sovereign power residing in themselves, and not derived from Assemblies or Congresses, to delegate to the representatives whom they might elect to the coming convention, the most plenary and all embracing power "*to do and accomplish whatsoever, on a consideration of the state of the district, may in their opinion promote its interests.*"

There can be no question that the power the people were thus asked to delegate, included, and was designed to include, that of separation from the United States. If the people could only be persuaded to take this step with sufficient unanimity, the election of delegates to the convention would impliedly carry with it the delegation of the power requested. In shaping its action, the November convention would then be governed by circumstances. If the public pulse indicated that it could be done safely, their formal declaration of sovereignty would be accompanied by an equally formal and explicit withdrawal from the Union, and that would be followed by the appointment of a "proper person to negotiate with Spain for the exportation of their produce on the Mississippi;"—this would depend on the success of the inflammatory denunciations of the "sinister purposes" of Congress, in working up the people to a white heat. But, if the patient, conservative, law abiding and liberty loving people insisted on yet another application to Congress, then, if the way was clear, they would, by previously wrenching the district violently apart from Virginia, so complicate that application that the Congress of the confederation, which had already explicitly and unanswerably stated its want of power in the premises, could not grant the application without a more gross violation of faith and duty. In the meantime the constitution would be framed, the government would be organized, the separation from Virginia would be consummated, Kentucky would be declared independent and sovereign, regardless of Virginia's laws, of the Constitution of the United States, which had then been adopted, of allegiance to the State of Virginia, or to the Union. In this condition of insurrection, the anticipated and certain rejection of the application by the Congress of the new government would find her people. This fresh refusal by Congress to receive the new state thus constituted into the Union, together with the failure by that body to procure for her people the freedom of the navigation of the Mississippi below the boundaries of the United States, which was not within the control of Congress, and every

murder by an Indian, as well as every honest effort by Congress to secure peace by protecting the Indian lands against seizure by the whites, would be used to exasperate the hitherto patient, but warlike Kentuckians, until, as the conspirators hoped, they would be ready to take the plunge into the wide open arms of the Spaniard! For this fatal leap, the embarrassments surrounding the organization of the new government, the want of an army, of money and of credit, combined to make all things seem propitious. If it be said that this is a prejudiced or a partisan picture, it must still be admitted to be an accurate reproduction of that distinctly limned upon the canvas, in ineffaceable and damning colors, in his letters to Miro, by the master hand of Wilkinson, the leader of the movement, around whom, as if in deference to his more fertile resources, to his superior talents, and greater courage, the others revolved as humble and admiring satellites. And Butler, who wrote for the conspirators an apology, which, however feeble it may have been, was still the best that could be offered, could draw no other conclusion from the letter of John Brown to Muter, than that "Mr. Brown, and in all probability many other of the ancient statesmen of Kentucky, did incline to discuss, if not to adopt, a connection with Spain, independent of the feeble and disgraced Union which then existed." Without detracting in the least from the historic value and frankness of this admission, their obsequious apologist might well have added, that these same "ancient statesmen" had done much to "disgrace" that Union, which they nevertheless preferred, because of its feebleness, to the stronger and "more perfect Union" which *had then been established*, and to which they were hostile because of its anticipated strength.

The removal of Judge Muter from Danville had relieved him for the time being from the evil influence which John Brown, Innes and others had exerted, and under which he had signed the circular of March 29, 1787. He had in the meantime gone back to constitutional ground. Locating in what is now Woodford, but was then Fayette county,

he had become a neighbor of Colonel Thomas Marshall, with whom he had maintained a friendship of long standing, which had been formed in Virginia before the Revolution; which had been continued during that struggle, in which Muter had been for a time a Colonel of Infantry in the State Line, and afterwards commissioner of the Virginia war office; and which was renewed after both had removed to Kentucky, where Marshall was surveyor of Fayette county, and Muter had become Chief Justice of the District Court. Muter being a bachelor, was frequently the guest of his friend, almost an inmate of his family.

As stated by himself in the letter published in 1790, Muter knew that at least a part of the letter written by John Brown to McDowell had been read in the Danville convention of July, 1788, though the part read was not the "sliding letter" referring to the Gardoqui proposition. As also stated by him, he knew that John Brown had written other letters to other persons in the district, which were received before and after the July convention, and which were similar to the one he himself afterwards received;—which urged Kentucky to assume independence and sovereignty, and as a motive for that precipitate step revealed the overture which Gardoqui had artfully made. When he received the letter from John Brown addressed to himself, which it appears from his own letter referred to, was not until the fall of 1788, and thus had the scheme placed circumstantially and plainly before his very eyes;—the amiable Muter could not but associate the statements made and advice given and the Spanish overture revealed by John Brown, with the covert inuendoes which had been so frequently let fall by Wilkinson; with the actions of the latter and of his coterie in the July convention; with their agitations among the people for an immediate separation from Virginia and the prompt organization of an independent state, without a law for that purpose; and with the exclusive privilege of trade which had been granted by the Spaniard to Wilkinson. Whatever had seemed mysterious and equivocal in all these circum-

stances, actions and hints, were explained by the letter of John Brown on which the pained eyes of Muter now rested.

The old Scotchman had an abundance of mere physical courage; but he had always lacked, and continued to lack, firmness; he was wanting in self assertion, unstable and irresolute. He seems to have been at bottom honest, true hearted and averse to intrigue;—yet he had always been a man easily seduced by the stronger natures around him, and in later years permitted his love of ease, his fear of losing a position necessary to his support, and his reluctance to wound even by adhering to the truth, to induce him to stultify himself by equivocation and by going squarely back on his own previous honest declarations. The first sentiment of this kindly, well disposed and at heart patriotic man, on reading John Brown's letter, was one of revulsion and reprehension. It may well be conceived that his next was one of mortification and self condemnation, that in his past association with Brown and Innes there had been aught to make Brown suppose he could be made an accessory in a business like that indicated by Brown's letter. Then came a patriotic and manly resolve, of which the most amiable and the weakest natures that are naturally honest are frequently capable, to do the part of a true man in counteracting the scheme which had been disclosed to his view. He knew, as he himself stated, as every one else knew,—as Caleb Wallace especially very well knew,—that Colonel Marshall had been immovably opposed to an illegal separation from Virginia, to a withdrawal from the Union, and to all the plans developed in the July convention. Led by a desire to thwart the scheme of disunion revealed in Brown's letter, and instinctively recognizing in his neighbor a more steadfast, a bolder, a stronger and more aggressive nature than his own, united to a clear judgment and prompt decision,—a man on whose unyielding courage he could rely and in whose tried patriotism he could confide, he exhibited the letter of Brown to Colonel Marshall.

To the healthy mind of the latter, Brown, in disclosing such a matter to Muter, could not place it under the seal



of confidence. Besides, Brown, who had written to Muter and to others, "with the permission of the Spanish minister," "not doubting but that they would make a *prudent use* of the information," had, by this distinct intimation conveyed to Muter his wish that the latter, whom he supposed would be favorable to the project, would communicate it to those whom he found to be equally favorable. The mistake Brown had made as to Muter was his misfortune and no fault of Muter, who, in the view of Marshall, had as much right to use, and was in duty bound to use to defeat and thwart, the information Brown had communicated as a means of forwarding, the project. As the most effectual means of baffling the objects of the writer of that letter, Colonel Marshall, therefore, urged its immediate publication, with comments explanatory of its character, for the purpose of enabling the people to penetrate the meaning of the clamor in the late convention for the immediate framing of a constitution and the assumption of independence, which the letter of Brown also contemplated and urged, as the first step necessary to the consummation of the arrangements "he had discussed with" Gardoqui. With a different view of his obligations, to say nothing of his reluctance to engage in controversy, the amiable and cautious Muter would not assent to the publication; but he did cheerfully and promptly consent to unite with Colonel Marshall in a determined effort to counteract and defeat the clandestine designs they both now plainly discerned. Neither had been a member of the July convention,\* but both determined to become candidates for seats in that called for November, "and both took much pains to inform the people of the danger and unconstitutionality of the course to which they had been advised by the late convention." Associated with them on the ticket and equally decided and energetic were John Allen (afterwards of Bourbon,) and Ebenezer Brooks, both of whom had been members of the July convention, and had helped to thwart the plan then urged by

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\* Marshall, Vol. I, page 298, edition of 1824.

Wilkinson, Wallace, Innes and Sebastian. They brought to their aid the influence and popularity of Joseph Crockett, who was the fifth on their ticket;—a man who had borne the brunt in the very “fore front” of battle in the revolution, and who was not now found wanting when domestic treason had to be confronted. The four soldiers and the pedagogue\* announced themselves for another application to Virginia, for separation, but only by legal and temperate measures. Wilkinson and Wallace advocated the same rash and precipitate course which they had urged in the July convention. The public debates were most animated. While Muter would not publish Brown’s letter, he spoke of it to others besides Colonel Marshall, and among others with whom it was discussed were undoubtedly Edwards, Crockett, Allen and Brooks. And under date of October 15, 1788, there was published in the *Lexington Gazette*, the following address, which was signed by Muter, and which had previously received the approval of Colonel Marshall, with whom it had been concerted, and to whom it was attributed by contemporary opinion, viz :

“Forming a constitution of government, and organizing the same, before the consent of the legislature of Virginia for that purpose first obtained, will be directly contrary to the letter and spirit of the act of assembly, entitled ‘an act for punishing certain offenses; and vesting the governor with certain powers;’ which declares that every person or persons who shall erect or establish government separate from, or independent of the State of Virginia within the limits thereof, unless by act of the legislature for that purpose first obtained; or shall exercise any office under such usurped government, shall be guilty of high treason.

The third section of the fourth article of the federal constitution expressly declares: ‘that no new state shall be formed, or erected within the jurisdiction of any other state; nor any state be formed out of the junction of two, or more states without the consent of the legislature of the states concerned, as well as of the Congress.’ Therefore the consent of Virginia to the separation must first be obtained agreeably to the above-cited section, to afford to Kentucky any prospect of being admitted a member of the Federal Union.

In the tenth section of the first article of the federal constitution it is declared: ‘that no state shall enter into any treaty, alliance, or con-

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\*Ebenezer Brooks was the private tutor of Colonel Marshall’s younger children.

federation.' Of course it must follow that no part of a state can enter into any treaty, alliance, or confederation.

The resolution of the late convention if adopted by the people, might fairly be construed, to give authority to the next to treat with Spain, to obtain the navigation of the Mississippi if they should think such a measure conducive to their interest when it might plainly appear by the before-recited section, that any other application than to the assembly of Virginia, and to the Congress of the United States, must be contrary to the federal constitution.

It is therefore submitted to the consideration of the inhabitants of Fayette, whether it may not be necessary in their instructions to their delegates, to direct them not to agree to forming a constitution and form of government and organizing the same, till the consent of the legislature of Virginia, for that purpose, is first obtained, not to agree to make any application whatever to obtain the navigation of the Mississippi, other than to the legislature of Virginia, and the Congress of the United States, to draw up and forward to the assembly of Virginia, a memorial requesting them to alter their acts for the separation of this district from Virginia, that the same be brought before the Congress of the United States, in the manner directed by the federal constitution, and to request them to authorize the convention by law, to form a constitution of government, and to organize the same; or direct a new convention to be chosen, to continue in office a reasonable time, and to be vested with those powers.

To forward to the assembly of Virginia, and the Congress of the United States (if they judge proper and necessary) a decent and manly memorial requesting that such measures may be pursued by Congress, or that Virginia, will use her influence with Congress to take such measures as shall be most likely to procure for the people of the western country, the navigation of the Mississippi.

GEORGE MUTER."

This statement of law and facts was not honored with a place in the "Political Beginnings," but, instead, was dismissed by the talented author as "the quarter sessions law argument." But, while not deigning to place it before his readers, that they might form their own estimate of its value, Colonel Brown did not deem it beneath the dignity of his pages to embrace the occasion afforded by its contemptuous mention to repeat his misstatement of facts in order to convict Muter and Marshall of inconsistency. Thus: "It does not appear what caused this change of opinion, and induced such strong opposition to the identical measures that had commanded their [Muter and Marshall's] *support* and *vote* in the convention of the preceding

July ;” \*—which the letters of Muter himself, as well as every other record, show to be absolutely untrue as applied to him, not only as to his having given the vote stated, but as to his having been a member of the convention at all. And which is shown by the sworn testimony of Greenup, which Colonel Brown read and which he *suppressed*, as well as by the written statement of Crockett, to be equally untrue as to Marshall having given the vote in question ; and by the statement of Humphrey Marshall, as well as by the fact that Wilkinson, Wallace, Ward, Allen and Brooks were the *five* members of the July convention from Fayette, to be as absolutely untrue as to Marshall having been a member of that convention. The pages of the Littell pamphlet, the entire record of the controversy which raged in 1806, will be searched in vain for an authority for this misstatement, which originated with, and all the honor and glory of which belongs exclusively to, the author of “ The Political Beginnings.”

Having thus misstated the facts concerning the votes of Muter and Marshall in a convention of which neither was a member, it is rather a matter of surprise that Colonel Brown hesitated to charge openly what he insinuates, that in their subsequent opposition, in the canvass preceding the November convention, to the plans of Wilkinson, Wallace, Innes, and Brown, they were both influenced by a proposition which the author alleges they had received from Connolly, a British agent, *before* Muter’s address was issued. Says Colonel Brown :

“ It seems *passing strange* that the quarter sessions law argument made by Muter in the letter he published *about the time* of Connolly’s visit to himself and Marshall, and which went forth to affect the convention of November, could have induced the convention to defer a step so critically important. And it is equally strange that Muter and Marshall, fully informed as they professed to be of the danger from Spanish influence, *and themselves having conferred with the British agent*, should have put forth so technical an objection to the immediate framing of a constitution and application for admission to the Union. [*Political Beginnings*, page 191.]

It would be superfluous to dwell upon the misleading

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\* Political Beginnings, page 193.

character of the construction here given to the actions of Wilkinson and Wallace and their followers in the July convention, or to point out that there was no honest purpose in their advocacy of an "immediate framing of a constitution," and by a separation from Virginia and the assumption of sovereignty, without a law to that end, to obtain the "admission of Kentucky to the Union." The real design of all this is seen in the letters of Wilkinson to Miro, in the dispatch of Gardoqui, and in the letter of Brown. It must be admitted, however, that, if the allegations of Colonel Brown concerning the conduct of Muter and Marshall in that convention, of their sudden change after an interview with and a proposition made to them by Connolly, were true, then their course would have been "passing strange," indeed. In fact, it would have been so very, very strange, that the reader would find it difficult, if not impossible, to reconcile that conduct with any assumption that Muter and Marshall were either honest or patriotic men; and that was precisely the view of their alleged conduct which Colonel Brown sought to convey. But when it is ascertained that neither Muter nor Marshall voted as alleged, nor was a member of that convention; that the letter of Brown to Muter was not received until the fall; that neither ever saw Connolly until after the November convention; and that all this distinctly appears in the evidence which Colonel Brown garbles and suppresses;—the reader will cease to wonder at the "strangeness" of the alleged inconsistencies of Muter and Marshall, and lose himself in admiration for the wonderful creative and constructive genius and amazing hardihood of Colonel Brown!

The people to whom it was addressed appear to have taken a view of the "quarter sessions law argument" of the then Chief Justice of the district widely different from that expressed by Colonel Brown. Under the direct influence of similar arguments the militia officers of Fayette effected a meeting, at which moderate resolutions were adopted to tranquillize the public excitement. General Wilkinson had been forced to dissemble; but notwith-

standing the deceits resorted to, he and his four associates on the ticket with him, Caleb Wallace, William Ward, Robert Johnson and Scott, were, on the fourth day of the election in the latter days of October, left far behind. Finding himself and all his ticket about to be beaten, Wilkinson then disclaimed all disorganizing designs, and gave public assurances that he would be guided by the wishes and instructions of the people;—though all the time he held firmly to his purpose and engagement with the Spaniard. Personally popular as he was, these pledges enabled him to secure his own election, by a small vote, over Ebenezer Brooks; while his four associates were defeated, and Colonel Marshall, Colonel Crockett, Judge Muter and the staunch John Allen, of the opposing ticket, were elected.\* Unfortunately for his own reputation, the necessities of Muter, his helplessness if thrown out of office and his consequent cringing efforts to conciliate men who held his future and means of livelihood in their hands, drove him in later years to equivocation and self stultification, when a strict regard for truth and public justice demanded from him plain and manly speech. But the danger to his country had then apparently passed away, and only the reputation of those whom he sought to shield were at stake. And, besides, from under all the rubbish of his tergiversation enough of truth appeared to prevent any one from being deceived. To his praise it must always be remembered, that when real danger threatened his country he acted a manly and an unselfish part, and that to the result of the election referred to, his address and active personal exertions greatly contributed. That a man

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\* After his defeat, Caleb Wallace continued to insist that the policy advocated by Wilkinson and himself in the July convention and during the canvass, of an immediate separation from Virginia and assumption of independence was right. A letter written by Ebenezer Brooks on the 25th of October, 1788, and published in the *Western World* in 1806, says: "Judge Wallace, it is said, declares that seven years hence the people will be convinced *that he and Wilkinson* have been in the right." Yet the able jurist had forgotten all about this when he testified as to his remarkable recollection of an alleged conversation a quarter of a century before.

so amiable, so cautious, so reluctant to wound, so averse to controversy of any kind, was driven by his sense of public danger to take a position so decided and aggressive, manifests the depth and seriousness of his apprehensions, and exhibits the nature he ascribed to the schemes of John Brown, as revealed in Brown's letter.

In other portions of the district there was less agitation than there was in Fayette; the same members who sat in the July convention were generally chosen to that of November.

It has been seen, that when John Brown "discussed with" Gardoqui the overture of the latter, he "expected" the convention of July "would resolve upon the erection of an independent state," as one of the results of his letters, and that this initiatory step would be taken during his absence; and in anticipation thereof, he told the Spaniard, that upon his return home he would "*inform*" his constituents of the Spanish offer, and "*aid*" in securing its acceptance. He announced the same purpose to Oliver Pollock. But, when he returned to the district in September, he was disappointed to find Wallace's resolution defeated in the convention, Kentucky still a part of Virginia and in the Union, and was confronted by the formidable opposition to the whole scheme of an illegal separation, and to all the sequela thereto, which had been boldly and energetically made by Muter, Marshall, Allen and Crockett in Fayette, by Edwards in Bourbon, by Anderson in Jefferson, and by good and true men in other portions of the district. Essentially a man of suppressions, concealments and evasions, deliberate, cold blooded and self-seeking, who kept an eye always on the hands of the public clock,—to have thrown himself courageously into the breach and, in the face of such determined opposition, to have risked all upon the open advocacy of the scheme he had privately plotted with Gardoqui and promised to "*aid*" would have been to change his own nature. That he wrote other letters than those addressed to McDowell and Muter is established by Muter's statement of his personal knowledge of such other letters. That during the



canvass preceding the November convention, he did all in his power to incense the people against Congress, by impeaching the sincerity and good faith of, and attributing unfriendly motives to the action of, that body, as he had done in those letters, is apparent from the letter of Ebenezer Brooks already quoted.\* To Christopher Greenup he communicated the overture of Gardoqui which he had promised to "aid." Greenup being opposed to the entire scheme, from its initial point of an illegal separation from Virginia to its intended culmination in an alliance with Spain, the prudent Brown forbore to advocate its acceptance to him.† With his intimate and leader, General Wilkinson, he was less reserved, as appears from a letter of that conspirator to Miro, under date

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\* Brooks wrote: "Our member of Congress seems much out of humor that he has been so little attended to in the controversy. They seem to think Congress *sincere* notwithstanding all he has written to the contrary." [Letter of Arthur Campbell, dated October 25, 1788; published in the "Western World" in 1806.]

† Greenup, who was then governor, had been understood to say that when Brown communicated to him the overture of Gardoqui, he commenced to advocate it in a feeble sort of way, but, on finding Greenup hostile, desisted. There was more than one person who so understood Greenup, who did not expect to be reported, and who denied the statement as published in the *Western World*. From his letter, however, it appears that Brown did make to him the stated communication, as he almost certainly did to all to whom he believed it safe to do so. Greenup's letter is as follows, viz:

*To the Editors of the Western World:*

From the conversation I had with you on the evening of the day on which the first number of your paper appeared, I did expect, from your positive promise, that you would have corrected the erroneous statement you had inserted in that paper, respecting a conversation (which you were not authorized to publish) that passed between you and myself, concerning Mr. Brown and others. Understanding that you are not likely to do so, I think proper to declare, that I did not in that conversation say that Mr. Brown "in a guarded manner approved" of Gardoqui's proposition, or any words like it. Mr. Brown merely related Gardoqui's conversation with him—neither approving nor disapproving the same. That I did not say General Wilkinson's memorial contained about eighty pages. But I did say, and do now say that I knew nothing of the individuals who were to fill the several places of honor under the Spanish government in Kentucky, but by the information of the late Colonel Marshall. At the time Mr. Wood spoke to me on the above

of February 14, 1789.\* To him he (Brown) made known the proposition of Gardoqui in all its deformity, as well as his own adherence to the scheme and desire that it should be successful; and Wilkinson discovered his knowledge of the man in ascribing Brown's refusal to openly advocate a scheme to which he was privately devoted, to his timidity, and to an apprehension that a public disclosure of the proposition would defeat rather than further its acceptance. The letter of Wilkinson also makes it clear, that in the mutual confidences between Brown and himself he disclosed to the Congressman the arrangement he had effected with Miro; and the subsequent actions of the two friends in the approaching convention can best be understood by looking at them under the light of those official explanations of the bold man whose superior nerve made him the leader. It is in the highest degree improbable that John Brown did not communicate it to others besides Greenup and Wilkinson;—

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subject I had not seen the statement of the propositions alleged to have been made by Gardoqui to Mr. Brown, and, therefore, could not say that his conversation with me corresponded with them. I now say it did not.

CHRIST. GREENUP.

July 11, 1806.

\* "Don Diego Gardoqui, about the month of March last, received from his court ample powers to make with the people of this district the arrangements he might think proper, *in order to estrange them from the United States and induce them to form an alliance with Spain.* I received this information, in the first place, from Mr. Brown, the member of Congress for this district, who, since the taking into consideration of our application to be admitted into the Union has been suspended, entered into *some free communications on this matter* with Don Diego Gardoqui. He returned here in September last, and, *finding that there had been some opposition to our project*, he almost abandoned the cause in despair, and *positively refused to advocate in public the propositions of Don Diego Gardoqui, as he deemed them fatal to our cause.* [The writer meant that the public advocacy of those propositions would be fatal to the cause.] Brown is one of our *deputies or agents*; he is a young man of respectable talents, but *timid*, without political experience, and with very little knowledge of the world. Nevertheless, as he *firmly persevered in his adherence to our interests*, we have sent him to the new Congress, apparently as our representative, but in reality as a *spy on the actions of that body.*" [Extract from Wilkinson's letter to Miro, February 14, 1789. Gayarre, page 241.]

in fact, that he did not acquaint *all* whom he felt free to approach on the subject. But the certainty that he did inform these two, one of whom was then the confidential agent of Spain in this nefarious design, is the most abundant evidence that Colonel John Mason Brown's assertions that "two persons only in Kentucky were informed,"\* (McDowell and Muter), and that "under the cautious advice of Madison the communication of Gardoqui was thus kept from the knowledge of all persons in Kentucky save McDowell and Muter," are untrue. And, if John Brown indeed acted under the "cautious advice of Madison," in his alleged mysterious reticence concerning the proposition of the Spanish minister, it will occur to the reader as a most singular circumstance, that one of the persons to whom he confided it was the man to whom Spain had granted valuable privileges of trade which she refused to concede to the United States, as a consideration by which he was to be in part compensated for his services in the fulfillment of the engagement he had entered into with the Intendant at New Orleans, to further the same schemes of disunion which John Brown had promised Gardoqui to "*aid*."

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\* Political Beginnings, page 153.

## CHAPTER XIV.

BROWN ELECTED TO NOVEMBER CONVENTION—OFFICIAL REPORT OF ITS PROCEEDINGS—THE EFFORTS OF WILKINSON, BROWN AND OTHERS TO SEPARATE IMMEDIATELY FROM VIRGINIA—THAT SEPARATION REALLY A SEPARATION FROM THE UNION—THE MOTIVE TO ACCEPT PROPOSITIONS OF MIRO AND GARDOQUI—WILKINSON'S SPEECH—JOHN BROWN'S STATEMENT AT THE CONVENTION—COLONEL MARSHALL'S ACCOUNT—JOHN BROWN'S OWN ACCOUNT—WILKINSON'S MEMORIAL—JOHN BROWN'S RESOLUTION—ITS PURPOSE—WILKINSON'S EXPLANATION TO MIRO—THE PURPOSE OF THE SUPPRESSED ADDRESS TO THE PEOPLE AS STATED BY LITTELL,

John Brown arrived in Kentucky in time to participate in the canvass, to become a candidate for, and to secure his own election to, a seat in the November convention. The meager official report of the proceedings of that body, as made by Thomas Todd, conveys no adequate conception of the issues which were presented, of the sentiments and purposes by which the opposing parties were animated, nor of the heated discussions which ensued. It states that on the first day, Monday, November 3, 1788, there was no quorum. On Tuesday, Samuel McDowell was again chosen to preside, and Thomas Todd to officiate as secretary. It was then determined that on the next day the convention would itself go into a committee of the whole, to consider the state of the district. To this committee were referred the resolutions of Congress upon the application of the district, which those resolutions had referred to the new government, that had been established by the ratification of the constitution by ten states. On the third day, those resolutions and other papers referring to the same subject were referred to the committee of the whole, of which Wilkinson was elected chairman. After the committee had deliberated for some time it rose, but with leave to sit again during the day. The convention then referred to

the committee the resolutions of the July convention, recommending the election of, and *giving powers* to, this convention ;” after which the convention again went into the committee of the whole, which occupied further time in deliberation, and then rose, to sit again from day to day. Petitions were then presented from the counties of Mercer and of Madison respectively, praying the convention “ that a spirited and manly address should be sent *to Congress*, to obtain the navigation of the Mississippi,” which was also referred to the committee. The resolution for preparing an address to the Assembly of Virginia was then taken up, read, amended and agreed to, as follows, viz :

“ That a committee be appointed to draw up a decent and respectful address to the assembly of Virginia, for obtaining the independence of Kentucky, *agreeable to the late* resolution and recommendation of Congress, and that they prepare and report the same to the convention tomorrow.”

The committee appointed consisted of Edwards, Marshall, Muter, Jouitt, Allen and Wilkinson, the first of whom had offered, and the second of whom had seconded, the resolution.

On the fourth day, the resolution reported from the committee of the whole upon the petitions from Madison and Mercer was recommitted to the committee of the whole, into which the convention then resolved itself, and of which Innes was elected chairman. After the subject had been discussed for some time, the committee reported to the convention that the petitions were reasonable, and the convention ordered that a decent and respectful *address to Congress* be prepared accordingly. The special committee appointed for the purpose consisted of Innes, Wilkinson, Marshall, Muter, Brown, Sebastian and Morrison.

Mr. Edwards, from the committee appointed to draw up an address to the assembly of Virginia for obtaining the independence of Kentucky, “ agreeable to the advice of Congress,” *reported* and *read* the address, and delivered it to the clerk, who again read it, when an amendment was proposed, and the address and amendment were placed

upon the table. It was then that John Brown, according to the official account, offered this resolution :

“ *Resolved*, That it is the wish and interest of the people of this district to separate from the State of Virginia, and that the same be erected into an independent member of the Federal Union.”

And it was ordered that the resolution “do lie on the table.” Thus far the official report of Todd, which makes no mention of the speech made by Wilkinson, nor in this connection of the memorial he read at this time, nor of the call upon John Brown for information as to the overture of Gardoqui, nor of any discussion between the parties, and conveys not even an intimation that the question of the navigation of the Mississippi was before the convention, except so far as the petitions from Madison and Mercer, and the resolution that an address should be sent to Congress to obtain it for the district, brought it before them ;—which, in fact, conceals nearly all the reader is interested in knowing.

The important truth, which that report conceals, is, that on the third day, after the convention had resolved itself into the committee of the whole, with the resolutions of Congress and the question whether the advice of that body should be followed as the only subjects before the committee for consideration ;—there at once ensued a discussion as to *what powers* were possessed by the convention, and *whence* those powers were *derived*. By Muter, Marshall, Edwards, Allen and Crockett it was contended, that the only power the convention had was the right of petition, to apply to the assembly of Virginia for an act authorizing the district to form a constitution, and consenting to its independence. By Wilkinson, Brown, Innes and Sebastian it was argued, that the convention had all the sovereign powers which the recommendatory resolutions of the July convention had advised the people to bestow upon their representatives ; and that those powers embraced the forming of a constitution, the declaration of independence, the assumption of sovereignty, without an application to Virginia, the navigation of the Mississippi, and all those sweeping and unlimited powers of doing

any thing and every thing which they might deem conducive to the interests of the district. It was during this debate it was discovered, that the resolutions of the July convention had not been referred to the committee. A motion was therefore made, that the committee rise, in order that the reference might be made by the convention to the people. To this opposition was made by Muter and Marshall and their associates, who held that the question of applying to Virginia (which was the sole thing the convention had power to do, as they contended,) was fully before the committee, and should be considered separately from the others. But the Wilkinson coterie were determined, that this question should be complicated with that of the navigation of the great river. They succeeded in having the committee rise, and then in securing the reference by the convention of the resolutions of the July convention to the committee of the whole. It was certainly at some time during the third or fourth day, and most probably during the debate on the question of reference, as Marshall, McClung and Butler concur in stating, that the most memorable utterances of Wilkinson and Brown were delivered, glancing at the idea of an illegal separation, as a step towards obtaining the navigation of the Mississippi, and yet doing it in a manner evincing their doubts of the sentiments of their auditors, and their apprehensions of the consequences of open avowals of their purposes.

By the master spirit of the intriguants, by Wilkinson, who had made with Miro the arrangements disclosed in their letters, it was said in the convention, that :

“Spain had objections to granting the navigation in question to the United States; it was not to be presumed that Congress would obtain it for Kentucky, or even the western country—her treaties must be general. There was one way, and but one, that he knew of obviating these difficulties, and that was so fortified by *constitutions*, and guarded by *laws*, that it was dangerous of access, and hopeless of attainment under present circumstances. It was the certain but prescribed course which had been indicated in the former convention, which he would not now repeat; but which every gentleman present would connect with the formation of a constitution, a declaration of independence and the organization of a new state; which, he added, might safely be left



to find its way into the Union on terms advantageous to its interests and prosperity. \*

Wilkinson continued to dwell upon the value and importance of the navigation, upon the inability of Congress to obtain the privilege of that navigation, and renewed his insinuation that Kentucky could obtain it for herself by taking the indicated step;—making exactly the speech which a man would naturally make who had formed with Miro an engagement to separate Kentucky from the Union, and yet who was warned by the expressions of those who listened that the ground on which he trod was dangerous. In conclusion he stated, that important information on the subject was within the power of the convention, and he doubted not it would be agreeable to the gentleman who possessed it to communicate that information. All eyes were directed upon John Brown, who was well understood to be the person to whom Wilkinson had referred; and “a member of the convention then desired Mr. Brown to communicate what he knew. † In reply to which invitation Mr. Brown, according to the statement of Colonel Thomas Marshall, an eye and ear witness, given in a letter to General Washington, dated February 12, 1789, only three months subsequent to the occurrence, said:

“He told us that he did not think himself at liberty to mention what had passed in private conversation between himself and Don Garloqui respecting us; but this much he would venture to inform us, that provided we were united in our councils every thing we could wish for was within our reach.”

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\* Marshall, page 318. Butler, copying this from Marshall's History, adds his supposition that it was taken from “the notes of Colonel Thomas Marshall, whose accuracy in another part of this debate was vouched for by Judge Thomas Todd, when summoned before a legislative committee in 1806.” Whether or not this supposition is correct, it is certain that Humphrey Marshall had ample opportunity for ascertaining the facts accurately, not only from Colonel Thomas Marshall, but from Muter, Edwards, Allen, Crockett, Anderson and others. That Wilkinson made a speech in reference to this subject, and hinting at the terms on which it might be obtained, is certain. That much appears in Littell's “*Narrative*.”

† Butler, page 177.

Upon this reply made by John Brown to the request, that he would communicate to the convention what he knew as to the terms upon which the freedom of the navigation of the Mississippi might be obtained by the people of Kentucky, Colonel Marshall, who had read Brown's letter to Muter, and clearly understood the full meaning of Brown's hesitating and cautious words, made this natural comment: "Meaning, as it fully appeared to me, that if we would assume government and declare separate from the Union, Spain would give us every indulgence we could ask for."

Having thus admitted his own private conferences with Gardoqui, confirmed what Wilkinson had said in regard to the information he possessed, and given the convention distinctly to understand, that they had only to act with *unanimity* to obtain from Spain all they desired, the circumstance Mr. Brown plumped himself down into his seat, and at this time not another word did he utter. If Wilkinson, Sebastian, Innes, and Wallace (who was a spectator, though not a member of the convention), hoped that he would openly advocate in that presence the scheme concerning which he had promised Gardoqui to "inform" his constituents and to "aid" in its accomplishment; or even that he would impart explicit information which might be useful in its details, they were, as their looks and manner indicated, sorely disappointed. When about to take the leap the horse had balked. Whether the opposition, that had already been made in the preceding canvass, had made him fear the consequences upon his own future of a more explicit declaration had daunted him, and had caused him to predetermine this laconic and oracular response; or whether, when he rose to make the statement his confederates evidently expected from him, he was disconcerted by the expression of reprehension and of keen scrutiny he detected on the countenances of many of his auditors, it is needless to inquire. It is only important for the present purpose the reader shall note, that *this* was the plea which John Brown made for unanimity, and that this was "the unanimity which John Brown

invoked in the convention of November."\* It was not, as his grandson most strangely represents, to adopt a constitution in order that an immediate application might be made to Congress to admit Kentucky into the Union;—for, equally in his secret letters and in his commingling with the people, he had represented that Congress to be insincere, treacherous and hostile. But it was, that they should be unanimous in separating from Virginia and from the United States, in order to profit by the overture of Gardoqui, the benefits of which, he had himself written, could only be obtained by a withdrawal from the United States. The man so correctly described by his friend Wilkinson to Miro, could not, unless by a sudden transformation of his own essential nature, when confronted by so many looks of scorn and of anger, have made a more explicit statement, that if the convention would only erect itself into an independent state and separate from the Union, Spain was ready to grant to the new state, thus independent and separate, every privilege of navigation and commerce her people could desire;—which privilege, he had written to Muter, could never be granted so long as they remained a part of the United States.

The dead silence that followed was broken by Wilkinson, who sought to revive the spirits of his adherents by reading to the convention the memorial to the Intendant of Louisiana, which he had concocted with Navarro and Miro at New Orleans. It has been seen that the original of this memorial had been forwarded to Madrid, where, together with the representations of Navarro and Miro, it had produced the instructions to Gardoqui, acting under which the overture to John Brown was made. The substance of that memorial, as read in the convention, was stated by Colonel Marshall in his letter to Washington (of *February* 12, 1789), the accuracy of which statement was vouched for under oath by Judge Todd, the secretary of the convention, and relative and protege of Innes. In plain and unequivocal terms, the memorial stated, that

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\* Political Beginnings, page 191.

“the western people were on the point of separating themselves from the Union forever,” because of intelligence that Congress was about to cede to Spain the navigation of the Mississippi for twenty-five or thirty years. It threatened Spain, that, in case she refused the use of the Mississippi to the *western people* (thus separated) Great Britain stood with arms extended ready to receive them. It quoted a conversation the author of the memorial had held with a member of the British Parliament to that effect. As this memorial was read, the sheets were handed to Sebastian, who held possession of them for the author; they were not placed on the clerk’s table, as was customary with public papers.

To counteract the effect of these proceedings, the petitions which had been obtained from citizens of Mercer and Madison, praying that an address might be *sent to Congress* to obtain the navigation of the Mississippi, were delivered to Innes, with the request that he would present them; which he did, knowing that the object prayed for was not within the power of Congress, and if the convention voted the address, the certain failure of Congress to comply would add to the discontent. These petitions, contemplating a constitutional course, met with no opposition from the moderate party, and were referred to a special committee, who soon reported a preamble and resolution, which was ordered to lie on the table. It was at this juncture that the resolution which had been offered by Edwards and seconded by Marshall “for appointing a committee to draw up a decent and respectful address to the people of Virginia, for obtaining the independence of the district of Kentucky, agreeable to the late resolutions and recommendations of Congress,” was called up and agreed to. This was the decisive action of the convention, which marked the spirit of loyalty and honor which was predominant in the convention, and gave warning to the men whose leaders had conspired with Miro and “discussed” treason with Gardoqui. The resolution for the preparation of this address was adopted in the moment of honest revulsion from the utterances of

Wilkinson and Brown. Wilkinson was the only man of his party on the committee intrusted with its preparation, and, though he endeavored by indirect means to defeat the address, he was too astute a politician to propose a different one, after having received an intimation so satisfactory to his ready perception of the loyal feeling of the convention.

On the next day the petitions from Mercer and Madison were taken up and the special committee was appointed to prepare the address to Congress. Mr. Edwards then reported the address to the Assembly of Virginia; but an amendment was offered for the purpose of delaying, and, if possible, of defeating it, and it was postponed for future consideration. The object was to make one more effort to bring the convention to immediately form a constitution, to organize government, to declare the independence of the district, and to assume sovereignty, without an act of Virginia, which was the first step necessary in the schemes of Wilkinson and Brown. The convention was immediately asked to come to the resolution introduced for this purpose by John Brown. That this was its purpose was avowed in the Littell pamphlet and is conceded in the "Political Beginnings." The resolution was characteristically tortuous and misleading.\* The first part of it, which embraced a separation from Virginia, and which was to have been *immediate* and without a law for the purpose, was the real object which was sought to be accomplished by the resolution; and it was in consonance with Brown's letter to Muter, with his promise to Gardoqui, with his laconic statement to the convention, when called on for information as to the means by which the navigation of the Mississippi could be obtained, and with the

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\*The following is the text of the official report, viz.:

"A motion was made by Mr. Brown for the convention to come to the following resolution, viz.:

"*Resolved*, That it is the wish and interest of the good people of the district to separate from the State of Virginia, and that the same be erected into an independent member of the Federal Union.

"Ordered, that the said resolution do lie on the table."

hints that had been given by Wilkinson as to the one thing necessary to be done in order to obtain that navigation. The second part, mentioning the "erection of the district into an independent member of the Federal Union" was out of the power of the convention itself to accomplish;—while not only was the step suggested by the first part prohibited by the laws of Virginia, but the Articles of Confederation and the Constitution, which had been adopted, equally prohibited Congress from receiving a State which had been "erected" in that manner. From its very nature this "erection into a member of the Federal Union" was to have been future, remote and contingent, while the action proposed was calculated, as it was designed, to defeat that object. It was incorporated in the resolution by Mr. Brown, to bridge over its first part with those who would have halted if a proposition to illegally separate from Virginia had been accompanied by an open declaration of a separation from the Union. Wilkinson, whose engagement with Miro has been seen, was actuated by the same policy when he intimated, that the independent State to which Spain would grant the navigation of the Mississippi "might safely be left to find its way into the Union," at some unknown and indefinite time in the future: though he and Brown both knew, that the condition annexed to the proposed favors of Spain was a final separation from the Union.

When the statement of Littel's pamphlet, as to the object which John Brown sought to attain by his resolution, is logically connected with Brown's letter to Muter, with his promise to Gardoqui, with his mutual confidences with Wilkinson, and with the engagement of the latter with Miro, which he had made known to Brown, there remains no room for doubt, that the above statement of the purpose of Brown's resolution is just. In Chapter VI of that pamphlet it is stated, that when the address to the Assembly of Virginia was reported by John Edwards, "an amendment was proposed, and both that and the address were ordered to lie on the table. The reason of this was, that some objections had been made to the substance of

the address, and *several members disapproved of the proceedings in toto.*" Those "several members" were James Wilkinson, John Brown, Benjamin Sebastian, and Hary Innes, and their followers; and the "proceedings" of which "they disapproved *in toto*," was the proposition to apply to the Assembly of Virginia for a law to authorize the separation, to consent to the erection of the district into a state, and to its reception into the Union, as provided in such cases by the Constitution. The action of Congress in referring the application of Kentucky to the new government the pamphlet then ascribes "to the malign influence of an Eastern politician, whose talents for intrigue have become famous throughout the civilized world." The pamphlet also states, that "A considerable time must elapse before the new Federal Government could come into operation, and experience had furnished them with no cause to believe that the protection of Kentucky would engross its earliest care. On the other hand *there was much reason to fear that bartering away the navigation of the Mississippi would be one of its first acts.*" There was, then, no expectation or purpose to make an "*immediate application*" for admission to the Union, as stated in the "Political Beginnings." Still, under the impression, as the pamphlet alleges, that the bartering away of the navigation of the Mississippi would be one of the *first acts* of the new government, it was the opinion of Wilkinson, who had conspired with Miro to separate Kentucky from the Union and to subject her people to Spain; of John Brown, who had promised Gardoqui to return home and "aid" in promoting that separation in order to negotiate with Spain, and who knew Wilkinson's plans; of Sebastian, who had now become one of Wilkinson's lieutenants, and who was afterwards proved to have been a pensioner of Spain; and of Hary Innes, who had written to the governor of Virginia that this "Western country will, in a few years, Revolt from the Union and erect itself into an independent government," who was one of the first two men in Kentucky to whom Wilkinson had fully confided, who had read Brown's letter to McDowell, and to whom Brown



had, beyond peradventure, communicated the details of his conference with Gardoqui;—it was the opinion of this patriotic quadrilateral, according to their own statement in Littell, “that it was the duty of the convention, under the powers delegated to them” by the recommendatory resolution of the July convention, “to proceed to form a constitution; that measures should be taken to organize the district under it; and *as soon as the affairs of the general government would permit*, Kentucky should present herself in that organized form (as an independent state) for admission into the Union, on the conditions contained in the compact with Virginia!” According to this statement, then, the object of the resolution was to immediately separate Kentucky from Virginia, and to erect the district at once into a state. This state would necessarily have been outside of the Union. One of the first acts of that Union, the pamphlet states, it was apprehended, would be to barter away the navigation of the Mississippi. There was no purpose, therefore, to apply at once for admission to a Union from which this action was feared. But at some future time, to be determined thereafter (and very distant that time would have been had Kentucky taken the fatal leap to which she was urged, and had her destinies been controlled by the men who had made such engagements with the Spaniard), that application might be made. In the meantime, however, Kentucky would have been out of the Union and free to form alliances where she pleased.

For these reasons, and under these impressions, Littell alleges the resolution of John Brown was offered. And after stating other arguments advanced why this resolution should be adopted, the author continues:

“As a further inducement to adopt this resolution, it was stated that there was a prospect of obtaining from Spain permission to export the produce of the country by the way of the Mississippi; and in consequence of some information which General Wilkinson had given some friends on that subject, the general was requested from the chair to state to the convention his opinion on this matter.”

Then Littell gives the version of Wilkinson’s speech, which it was supposed was best calculated to conceal the

purposes which the reader knows Wilkinson had. His information was derived from Brown and Innes, and, of course, the intimation given by Wilkinson of the only way in which Kentucky could obtain for herself what Congress could not secure, was carefully suppressed;—just as Innes suppressed in the same publication the words “Revolt from the Union” in his letter to Governor Randolph, as Brown suppressed his letter to Muter, as the resolution of Wallace in the July convention was suppressed, and just as these three men had combined to suppress the fact that they had signed the letter which induced the censure of Clark. The fact is mentioned by Littell that Wilkinson read his memorial to the Intendant of Louisiana, and compliments are passed upon its ability and style. And then comes this remarkable passage :

“This communication (the memorial,) brought to recollection information received by the president of the convention on the same subject in a letter written by John Brown, while in Congress, after the application of Kentucky to that body had been defeated as hereinbefore mentioned. A motion was then made that the president request Mr. Brown, (who was then a member of the convention) to make such communication on the subject, as he should think proper. *Mr. Brown then stated in a concise manner the substance of what he had written to Colonel McDowell.* But in doing this he merely made a naked statement of the conversation, without recommending the adoption of any measure in consequence of it, or suggesting a single sentiment of approbation.”

It has been seen, however, that the “prospect of obtaining from Spain permission to export the produce of the country by way of the Mississippi” was “a further inducement to adopt” Mr. Brown’s resolution, which was understood to be, and was designed by its author as, a step for the realization of that prospect. The reader will note the peculiarity of the assertion in the above extract, that “*Mr. Brown then stated in a concise manner the substance of what he had written to Colonel McDowell;*”—which omitted the fact that Spain’s condition, on which alone she would grant that navigation to Kentucky, was that the district must *first withdraw from the Union*. Then, observing the pretense in the authorized statement made by Littell, that the realization of the “prospect” held out by Spain for obtaining that navigation was consistent with a

future application for admission to the Union, he will be able to fully appreciate the motive John Brown and Hary Innes had for suppressing the letter written to Muter, and for falsely stating that it gave the same account of the proposition of Gardoqui as that given in the letter to McDowell; and in arriving at this appreciation of the defense thus offered, he will comprehend the characters of the men and the nature of their cause.

If John Brown had in truth detailed to the convention the proposition of Gardoqui *as* he had stated it to McDowell, leaving the convention to suppose that Spain had offered to grant the navigation to Kentucky *as a member of the Federal Union*, it would have been but an additional evidence of his duplicity and of his perfidy.

In Chapter X of *Littell* appears this passage: "But in the convention of November, 1788, Mr. Brown made a public communication of his conference with Gardoqui, in the presence of honest simplicity, wary jealousy and suspicious duplicity. In the hearing of confidential friends and insinuating hypocrites, of open rivals and secret enemies." And a little further on in the same chapter the statement is again repeated that Brown reported to the convention his conference with Gardoqui. The reader will see from the letter to Muter and from Gardoqui's official dispatch, that, in that conference, Gardoqui made a distinct proposition to Brown to grant Kentucky the navigation of the Mississippi on the fundamental condition precedent that Kentucky would erect itself into an independent state and separate from the Union; and that Brown thanked Gardoqui for making that proposition, promised to "aid" in promoting its acceptance, and urged in the convention that the initial of measures necessary to secure that navigation under that proposition should be taken. There is no one so simple as to believe that the men who favored a separation from the Union in order to obtain that concession from Spain, contemplated the abandonment of the advantage it would have conferred by a subsequent application for admission back into the Union!

If Brown's own statement through *Littell* is to be be-

lieved, he stated to the convention the overture which Gardoqui had made; though in that presence he did not dare to *advocate* it. He did not claim that he had lisped one word in opposition to the proposition of treason which he alleged he had then communicated. While men were still living who were present and had heard all that was said, even he was ashamed to deny that the subject was mentioned in the convention, or that he had spoken in reference thereto. It seemed to him, that it would have been less discreditable to have revealed the whole proposition than to have resorted to the vague, equivocal and timid course imputed to him in the letter of Colonel Marshall. He therefore asserted that he had made a full disclosure to the convention; and the argument was made for him that, if his conduct was reprehensible, the people knew it, and by twice thereafter electing him to Congress, had participated in his guilt; and, as the people were known to have been loyal, his election by them, established his own loyalty! No claim was then made that he had communicated the overture to Madison, and by his advice kept it secret from all but Muter and McDowell. From the beginning to the end of that pamphlet there is not an intimation that he had made a confidant of Madison, nor that he maintained secrecy. All that was an afterthought. On the contrary the misrepresentation then resorted to was that he had made the *details* of the matter public, that it was generally known, and that the people who elected him knowing the facts had shared his guilt, and, therefore, he was innocent!

As will be seen, the convention had already directed an address to the Assembly of Virginia, requesting the passage of a law for a legal separation agreeable to the recommendation of Congress, and had defeated the resolution of John Brown designed for precipitate and illegal action. But, as a last, despairing effort, on Saturday, the 8th of the month, General Wilkinson, in order to suspend this address and prevent its adoption, offered a preamble reciting the discordant opinions which divided the people, and a resolution that a "committee be appointed to draft an

address to the good people of the district," "solemnly calling on them to furnish the convention, at their next session, with *instructions* in what manner to proceed, on the important subject to them submitted," which was that of "independent government." The motion carried, and Wilkinson, Innes, Jouitt, Muter, Sebastian, Allen and Caldwell were appointed as the committee.

Crockett became so alarmed at the speeches of Brown and Wilkinson, at the memorial of the latter to the Intendant of Louisiana, and at this resolution calling upon the people for instructions, that he left his seat in the convention, hurried to Lexington, obtained the signatures of several hundred leading citizens of Fayette, remonstrating against any separation without the previous consent of Virginia, and with this returned to Danville by Monday, when he presented it to the convention, in which it was read. Wilkinson, who had pledged himself to obey instructions, yielded to the inevitable with the best grace he could summon to his aid. On the same day, accordingly, he reported and read an address to Congress\* praying

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\* Wilkinson sent Miro a copy of the Lexington *Gazette* containing the official report of the proceedings of the convention. In his letter to the Intendant dated February 14, 1789, he gave the following correct account of the motives for this address to Congress on the subject of the Mississippi, over which Congress had no control, viz:

"You will observe that the memorial to Congress was presented by me, and perhaps your first impression will be that of surprise at such a document having issued from the pen of a good Spaniard. But, on further reflection, you will discover that my policy is to justify in the eye of the world our meditated separation from the rest of the Union, and quiet the apprehensions of some friends in the Atlantic States, the better to divide them, because, *knowing how impossible it is for the United States to obtain what we aspire to, not only did I gratify my sentiments and inclinations, but I also framed my memorial in such a style as was best calculated to excite the passions of our people*; and convince them that Congress has neither the power nor the will to enforce their claims and pretensions. Then, having energetically and publicly represented our rights and lucidly established our pretensions, if Congress does not support them with efficiency (*which you know it can not do, even if it had the inclination*), not only will all the people of Kentucky, but also the whole world, approve of our seeking protection from another quarter." [Gayarre, page 246.]

that body to obtain the navigation of the Mississippi for the district; which was adopted. He then read an address to the people,\* which was referred to the committee of the whole and was never heard of again. It was suppressed.

The committee of the whole reported to the convention the address of the Virginia assembly, which had been moved by Edwards and seconded by Marshall on the third day of the convention, had been reported by Edwards on the fourth day, an amendment to which was then offered in order to postpone its consideration, and which was on Monday, the seventh day, finally taken up, amended and adopted. The victory was won. The friends of Wilkinson then offered a resolution thanking him for his memorial to the Intendant of Louisiana, which, as it was an empty compliment and could affect nothing practically injurious, was permitted to pass, by men who were too well content with their escape from real dangers to be severely critical as to non-essentials. And then the convention

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\* The object of the resolution asking instructions from the people which was passed on Saturday, and added to Crockett's alarm, is thus explained in the Littell pamphlet, viz :

"Here it was (in the November convention) that General Wilkinson read his treasonable memorial—and here it was that Mr. Brown reported his treasonable conference—and here it was (as they say in their first number,) that General Wilkinson made a treasonable motion that they should proceed to form a separate constitution, independent of the action of Virginia. The reader will see from the journal that Wilkinson made no such motion, and that the motion he did make, so far from tending to so rapid a progress, was of a retrograde tendency. *The object was not to proceed to do any thing, except to impart to the people at large the information which had been received by that body, and to await their future instructions.*"

What was the information which had been received by the convention, to impart which to the people at large was the object of Wilkinson's resolutions, and upon which the future instructions of the people were desired? It was the information given by Wilkinson and by John Brown as to the terms upon which Spain was ready to grant the navigation of the Mississippi! To make an incendiary appeal to the people, based upon this information, with the hope that they would instruct to make the plunge. The address which was drawn up by Wilkinson and read, and was then suppressed, was to that purport and was designed to that end.

adjourned to meet again in August, 1789. The peril was over before it was fully comprehended. The turning point was the adoption of the resolution moved by Edwards and seconded by Marshall, that a decent and respectful address should be sent to the Virginia assembly for an act of separation agreeable to the recommendations of Congress.\*

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\* Captain John Jouitt was the man who gave the Virginia Assembly timely notice of the approach of Tarleton, and thus saved it from capture at Charlottesville. A handsome sword was voted to him in 1781 for this service; but the order of the Assembly not having been properly carried out, the Assembly of 1786, of which Jouitt was a member, again voted the sword, which was then delivered. He was the father of Captain John Jouitt, U. S. A., and of Matthew Jouitt, Kentucky's most gifted artist.



## CHAPTER XV.

THE NOVEMBER CONVENTION—A CALL ON JOHN BROWN—FIRST INFORMATION GIVEN TO WASHINGTON—FIRST PUBLICATION IN REFERENCE TO JOHN BROWN'S CONDUCT MADE AT THE REQUEST OF WASHINGTON—COLONEL MARSHALL'S LETTER TO WASHINGTON—CROCKETT, MUTER AND SEBASTIAN CONFIRM MARSHALL—COLONEL BROWN ADMITS THE CONDUCT IMPUTED TO BROWN WAS TREASONABLE—DENIES THAT BROWN SPOKE AS REPRESENTED BY HUMPHREY MARSHALL—CONTRADICTS NOT ONLY COLONEL MARSHALL, MUTER, CROCKETT, AND SEBASTIAN, BUT CONTRADICTS ALSO JOHN BROWN HIMSELF—COLONEL BROWN'S SUPPRESSIONS, PERVERSIONS, AND INACCURACIES.

In December, 1788, a call was made upon John Brown, in the columns of the *Lexington Gazette*, to communicate to the people the information which he had written in his various letters, which were far from having been kept as secret as his grandson would have one believe. The call evidently came from Wilkinson, or from some member of his coterie, and was designed to have the same effect as was intended by Wilkinson's address to the people, which had been suppressed. But the lesson taught the prudent Brown in the convention had rendered him even more circumspect than he was in that body.

Some of the members who were sent to the Virginia House of Delegates from Kentucky (to the session of 1788-9) were anxious that Washington should be informed of the movements in the district. Their wishes and apprehensions were communicated by them to Dr. David Stuart, one of the delegates from Fairfax county.\* From Dr. Stuart, General Washington received his first infor-

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\* Dr. Stuart had married the widow of John Parke Custis—daughter of Benedict Calvert and a lineal descendant of the Lords Baltimore. Her first husband was Washington's step-son, and two of their children, George Washington Parke Custis (father of the wife of General R. E. Lee) and Nellie Custis who married Lawrence Lewis, were adopted by

mation\* concerning the Spanish movements in Kentucky; and at his request Dr. Stuart published in the *Alexandria Gazette*, of January 22, 1789, an article from which the following is an extract, viz:

“By information received from Kentucky, we learn, that many of the principal people of that district are warmly in favor of a separation from the Union, and contend that it is injurious to the interest of that country, to be connected with the Atlantic States. This idea, pregnant with so much mischief to America, is said to be much cherished by intelligence carried there by Mr. Brown, member of Congress, to this effect: That he had the strongest assurance from the Spanish Ambassador, that on such a declaration, Spain would cede to them the navigation of the Mississippi and give them every support.”

The article proceeded to urge that measures should be taken to check this movement.†

the general. Those relations, and his own high character, made Dr. Stuart an intimate and highly valued friend of Washington, as appears in their correspondence. Washington testified this regard in his will.

\* In Washington's reply to the letter of Colonel Thomas Marshall, of February 2, 1789,—the letter of Washington bearing date of March 27, 1789—he stated: “If I was greatly alarmed at the nature of the transactions mentioned in it, I was not less obliged to you for communicating so clear an account of them. It is true, *I had previously received some verbal and written information on the subject of a similar tenor*, but none which placed the affair in such an alarming point of view, as that in which I now behold it.” This referred to the statement made to him by Dr. Stuart.

† To a friend in Shelby county, Ky., Dr. Stuart wrote, under date of Fairfax county, September 30, 1806, a letter from which an extract was published in the *Lexington Gazette*, of December 1, 1806, as follows, viz:

“I believe, however, I gave General Washington the first information of the fears entertained by many in Kentucky of attempts carrying on to separate that country from this. I received my information from the delegates in the last assembly in which I served. At this distance of time it is not in my power to name them particularly. I recollect well Colonel Edwards, who has since, I think, been in Congress, was one of my informants. It was the wish of all that I should communicate their apprehensions to the general, in hopes, that on his election to the Presidency, he would adopt some measures to defeat those attempts. This was a little previous to the first election. He expressed much regret, and immediately, I have no doubt, addressed himself to Colonel Marshall, for more particular information. [There is no evidence that this was the case.—T. M. G.] At his request, I inserted a short paragraph in the *Alexandria papers*, containing the information I had communicated. I have no copy of this paragraph, nor can it be pro-

Three months after the scenes narrated in the preceding chapter, and in which he was an active and influential participant, had occurred; and while the details were still fresh in his memory,—on the 12th February, 1789, Colonel Thomas Marshall wrote to General Washington an account of John Brown's letter to Muter; of what Brown had said in the convention in response to the call on him for information: of his own conclusions from that letter and from the language used by John Brown in the convention; of General Wilkinson's trading privilege with New Orleans, and of the memorial which General Wilkinson had read in the convention; and of the visit of Dr. John Connolly to himself and Muter and of all the details of their conversation. It is true, as stated by Colonel John Mason Brown (who, for a purpose which will hereafter appear, carefully suppressed what Colonel Marshall had written), that the accuracy of Colonel Marshall's recollection was not subjected to the test of a cross-examination; but it was much more apt to have been correct concerning events which had so recently transpired, than were the recollections given twenty-four years after by the witnesses who were subjected to that test in the suit of *Innes v. Marshall*. And it is a notable circumstance, that not one of the witnesses whose testimony Colonel Brown cites in the slightest particular contradicted the statements made in the letter of Colonel Marshall to Washington. The statement made in the Littell pamphlet, that the account given in that letter of Wilkinson's memorial "was as unfavorable to Wilkinson as the truth of the case would permit," is itself an admission that the account *was true*; while in his testimony in 1806, before the legislative committee charged with the investigation of the accusation that Benjamin Sebastian was a Spanish pensioner, Judge Thomas Todd, one of the men

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cured. It was, however, but short, merely expressive of the fears entertained, without, I believe, designating any characters; at farthest but few. I recollect at different times, during the first term of his Presidency, to have heard him express great uneasiness respecting the opinions too generally entertained in that country."

who paid for the writing and printing of that pamphlet, vouched for its accuracy under oath.\* Of the account given in that letter of the contents of John Brown's letter to Muter, the Littell pamphlet simply says that Colonel Marshall's account was as "unfavorable as possible," and then impliedly contradicts it by representing the Muter letter to have been the same as the letter to McDowell, which was not true. The reader will compare the passage in John Brown's letter to Muter relating to the proposition of Gardoqui, with the description of its contents by Colonel Marshall; and will see that the latter's description is not an exaggeration of those contents, and that a different representation could not have been made without a sacrifice of the truth. The Littell pamphlet makes no allusion whatever to Colonel Marshall's statement of what John Brown said in the convention, in response to the call on him for information in regard to the proposition made to him by Gardoqui; but, to repel the argument made in the *Western World* that the secrecy he maintained in re-

\*In that investigation Judge Todd was asked the following questions and gave the following replies, viz.:

"Question: Was you not clerk of the Kentucky convention in the year 1788?

Answer: I was.

Question: Did not General Wilkinson produce a lengthy memorial and read the same in that convention, and then state that he had before that time presented to the Governor or Intendant at New Orleans a copy thereof?

Answer: He did.

Question: Was that paper deposited and left with you as clerk, as other papers produced in like manner generally are?

Answer: It was not. . . .

Question: Do you recollect the substance or object of the memorial read by General Wilkinson?

Answer: I do not; but upon reading the letters published in the newspapers, as having passed between Colonel Marshall and General Washington, it appears to me to be tolerably accurately stated in Colonel Marshall's letter."

Colonel Brown, in quoting this matter from Todd's deposition, suppresses all but the last question and answer, so as to conceal from his readers, so far as possible, that the memorial was read in the convention of November, 1788.

gard to the overture of Gardoqui was an evidence of conscious guilt, John Brown asserted through Littell that he had disclosed that overture in the convention. The question, then, is, whether John Brown in that convention simply informed his auditors that, while he did not feel at liberty to mention what had occurred in the private conferences between Don Gardoqui and himself, yet he could assure them that, provided they acted with unanimity, every thing they desired was within their reach, as stated by Colonel Marshall? or, whether he told them plainly what Don Gardoqui had proposed, as asserted by John Brown himself in Littell?

One of those statements must be true and the other false. If Colonel Marshall's statement was not true, then he was a deliberate falsifier; for, if John Brown had made a disclosure of the conference between Gardoqui and himself to the convention, Colonel Marshall could not possibly have understood him as he reported him. And it would have been a falsification without a motive for the deception;—because John Brown's own statement makes a worse case against him than does that of Colonel Marshall. But, if the statement of John Brown that he had made the disclosure publicly to the Danville convention had been true, what then must be thought of the conduct of James Brown, who, in that case, was unquestionably aware of the fact and of the nature of the overture made by Gardoqui, in positively denying that any such proposition had ever been made to his brother, and in villifying James M. Marshall for mentioning and describing the contents of the letter of John Brown to Muter? In that case, James Brown stands convicted of vehemently denying that his brother had written in a letter what he knew he had uttered in a public speech in the presence of witnesses!

On the other hand, if Colonel Marshall's statement in the letter to Washington was true, then that of John Brown in the Littell pamphlet was deliberately false. The reader has seen what other suppressions and falsifications John Brown was guilty of in that pamphlet. He has also seen that the other statements of Colonel Mar-

shall's letter were fully corroborated. As to this, Benjamin Sebastian, in his deposition in the suit of *Innes v. Marshall*, was asked: "Do you recollect that, in the Kentucky convention of 1788, John Brown, then a member of Congress, was called on to give information of what had been communicated from Gardoqui, the Spanish minister, to him on the subject of the Mississippi, and if you recollect the information then given by John Brown, detail it?" To which Sebastian answered: "This deponent recollects that John Brown was called on to give information to the convention respecting some communication made to him by Gardoqui; but as far as my memory serves me, the information was made in such ambiguous terms that nothing could certainly be collected from it. Great advantages, it was said, would result to Kentucky by the adoption of some plan; but whether it was a commercial one or of some other nature, this deponent does not now recollect." A very convenient memory, to be sure, but, as far as it goes, this confirms Colonel Marshall as to the ambiguity of Brown's answer, and contradicts Brown as to its directness. Colonel Joseph Crockett, in his deposition in the same case, said that "John Brown made a short speech in said convention, which was about this: 'That he had it from the highest authority, that if we would separate from Virginia, every thing we could wish for was within our power to reach!'" On being asked what authority John Brown alluded to, or what authority he understood him to allude to, Crockett responded: "I do not recollect that he named any particular authority, but my impression was, and is, that it was *Spanish authority* that he alluded to in said communication." To the interrogatory of Innes, whether or not John Brown was "requested to give the convention information which he possessed relative to the navigation of the Mississippi before he made the speech hereinbefore stated by you,"\* Colonel Crockett answered affirmatively.

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\* It will be observed that the request was made at the suggestion of Wilkinson, and was a part of the plan which had been prearranged. Wilkinson did not need the information, but desired Brown to confirm the hint he had himself given out, which Brown did, though ambiguously.

To the further question: "Did he say any thing more than merely to state the fact as detailed by you in your answer to the third interrogatory of the defendant?" The witness responded: "I answer, that, what I stated in my answer to the third interrogatory of the defendant was the *substance of* and *all that was said by John Brown in the convention*—perhaps he might have used more words." The very interrogatories of the plaintiff, Innes, imply an admission of the substantial accuracy of the recollection of the witness. The questions and the answers equally and fully confirm the statement of Colonel Marshall, and contradict that of John Brown as made by Littel. This deposition, given on the 29th of January, 1813, twenty-four years after the occurrence described, clearly shows that, notwithstanding the ambiguity of Brown's statement, he was understood by the witness, as he was equally well understood by others who heard him, to intimate to the convention that he knew from Gardoqui's own lips, that the Spaniard was ready to grant to Kentucky the navigation of the Mississippi, on condition that the district would declare its independence and assume sovereignty; and that this meant a separation from the Union as well as from Virginia is shown by the letters of Wilkinson to Miro, and by that of John Brown to Muter.\*

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\* In the change of front made by many good and true men during the administration of John Adams, Colonel Crockett was one of those who left the Federal and united with the Republican party under Jefferson. He was appointed United States Marshal in place of Samuel McDowell, Jr., who attributed his removal to the misrepresentations and influence of "the Browns," who had become intensely hostile to all the McDowell family, as they were also to Muter. Colonel Crockett was friendly with Innes, who was judge of the court of which Crockett was marshal, and also with John Brown. He shielded them all he could, and in his testimony went to the utmost limit in their behalf to which he could go without sacrificing truth. He stated that John Brown did not within his hearing, either in the convention or in conversation outside of it, *advocate* or *urge* a dismemberment of the Union, which was true, as, according to his own statement, all that Brown said was the ambiguous answer Crockett had already attributed to him. The memory of Crockett was somewhat at fault in several particulars. He evidently did not, when he testified, perceive the drift of Brown's resolution, which he attributed to Colonel Marshall. He also attributed the



But there is not wanting other evidence to sustain this sworn testimony. In the letter of Judge Muter, by which he accompanied the publication of the letter of John Brown to him, dated August 20, 1806, and published in the *Western World*, he stated: "As to the information or assurance given by Mr. Brown, [in the November convention—T. M. G.], I can not at this distance of time recollect particularly; my impressions are, *that he assured the convention that all they asked with respect to the navigation of the Mississippi was in their power to obtain.*"\* The reader can

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address to the Assembly of Virginia to Wilkinson and Brown. The former was on the committee, the latter was not. They were both opposed to it *in toto*, but, after Crockett had obtained the remonstrance from Fayette, they amended it by lugging in the question of the navigation of the Mississippi, and, in that form, assented to it in the committee of the whole, after having done all in their power to defeat it. What Colonel Crockett thought of their proceedings *at the time* is seen from the energy and expedition with which he obtained signatures to the remonstrance against those proceedings. The nature and tone of the discussions in the November convention is also plainly discerned in the statement of Colonel Crockett in his letter to A. K. Marshall, in 1806: "I was in the convention of 1788 with Colonel Marshall, and knew he was *opposed to a violent separation from the United States, and took on that subject most decided grounds.*" Why should Colonel Marshall have taken most decided grounds in the convention in opposition to a separation from the United States, if nothing was said or done in that convention to warrant the conviction that there was in that convention a party which was endeavoring to accomplish that separation?

The friendship which existed between this gallant man and Colonel Marshall was ended by the death of the latter in 1803, but it was continued between Colonel Crockett and Colonel Marshall's descendants. Among those who have a just satisfaction that this heroic soldier and true patriot was their ancestor are General S. W. Price; Prof. James Taylor, of Bloomington, Ill.; Colonel Joseph C. Mitchell, of Chariton, Iowa; George Shanklin, of Lexington, Ky.; Melancthon Young and Mrs. Chas. Mann, of Nicholasville; Dr. John McCalla, Washington, D. C.; Mrs. Anna Letcher, Nicholasville; Hon. Wm. Woodson, Lexington, Mo.; and Colonel Bennett H. Young, of Louisville.

\*In the midst of all the reprehension which the character and conduct of Muter subsequent to 1788 unavoidably excite, one who remembers his real patriotism in time of need can not help feeling for him much commiseration. He had been a Colonel of Infantry in the State Line (not the commander of a ship, as stated in Collins), but was not at all distinguished. For a time he was commissioner of the Virginia war office, but an investigation of its affairs and of his management by

form his own estimate, as to how far the testimony of Sebastian and Crockett and the statement of Muter confirm

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a legislative committee induced a report from its chairman, John Page, that it was in miserable condition, that Muter was not qualified for the position, and recommending his immediate dismissal. This was about to be done, when Muter resigned, March 21, 1781. [Virginia State Papers, Vol. I, page 587]. He came to Kentucky in 1783, and in 1785 was elected judge of the district court. Part of his career in Kentucky has been already stated in these pages. The letter he published in 1790 accompanying that of John Brown was dictated by his desire to show, that he had consented to the publication of the extract from Brown's letter, not by a becoming sense of what was due to truth, which had been falsified, but by a desire to prevent a duel. He continued friendly with Colonel Marshall. But when the district became a state in 1792, Innes, who was already judge of the federal court, was appointed chief justice of the court of appeals; while Muter, who had been chief justice of the district court, was reduced to be judge only of Oyer and Terminer, with a salary which remained unfixed. It was generally understood that this was the penalty for having published John Brown's letter. Innes preferred the federal office, and then Muter was appointed to fill the vacancy. The implied contract under which this appointment was given and accepted, may be presumed from the fact that, after that day, Muter never crossed Colonel Marshall's threshold. In later years, he united with Sebastian in a decision, in the case in which Kenton and McConnell were the parties, which would have vitiated nine-tenths of all the land titles in the state. Both branches of the legislature passed resolutions declaring the decision to have been corrupt, and to remove the two judges; but the movement failed for a want of a two-thirds majority in both branches, and the judges clung to their places. Shrinking under the popular indignation and fearing that in the next Assembly the requisite majority would be obtained, Muter then turned around and united with Wallace in a reversal of his own decision. There was great anxiety to be rid of him, but he clung to his office until he managed to negotiate a bargain with the legislature for a pension of \$300 per annum conditioned upon his resignation. In the next Assembly an effort was made to repeal the law granting the pension, but it was vetoed by the governor. The succeeding legislature, however, abolished it. He then became a pensioner on the bounty of Judge Thomas Todd, who was his successor. It was in the midst of these troubles, feeling that his means of subsistence were dependent on the will of those men, that Muter equivocated by publishing a letter referring to Wilkinson's memorial as of a *commercial* nature, and protesting that "there was nothing in John Brown's letters, information or assurance which impressed me with a belief that Mr. Brown intended to unite this country with Spain, or that his communications related to any thing other than of a commercial nature." How the poor old man had been really impressed by John Brown's letter may be read in his address of October

Colonel Marshall's account of what John Brown said in the convention, and justify the conclusion he drew therefrom. They certainly disprove the statement made by John Brown through Littell, as to the nature of his utterances.

When the depositions in the suit of *Innes v. Marshall* were taken, twenty-four years had passed, the times were changed, no public danger threatened, men who had formerly clashed had been reconciled, there was a general disposition to throw the mantle of oblivion over the past, men were reluctant to give testimony which reflected upon others high in official station, and it was most difficult to elicit the facts. If any way was opened for an evasion they generally availed themselves thereof. Samuel McDowell was asked: "Have you any knowledge of a proposition being made at any time by any member of the convention to separate absolutely and unconditionally from the United States, *and* to form a connection with any other government?" As no proposition in these terms had been made, McDowell, of course, replied, that he had "no knowledge or recollection of such a proposition ever having been made by any one." In reply to another question, he said that he had never heard Brown nor Innes "express a wish to sever the Union, or to have any connection with Spain *except* to trade to New Orleans." They had, then, expressed a wish for such a connection with Spain as would enable them to trade to New Orleans, and both knew that the privilege of that trade could only be had by a separation from the Union, though, it would seem, John Brown had concealed that fact from McDowell, and led him to believe that it could be obtained by Kentucky as a member of the Union.

Caleb Wallace was also asked: "In that meeting held in July, 1788, by the said members, was there any motion or proposition made by any member of that body to sepa-

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15, 1788. It may be further seen in his letter published in 1790, in which he refers to his apprehensions and sense of duty when the "business of a *total* separation was up for consideration," which could only have meant a separation from the Union as well as from Virginia.

rate the district of Kentucky from the United States of America, establish an independent government, *and form a connection with the government of Spain or any other power?*” And Wallace, who had himself advocated the immediate framing of a constitution, the organization of the district into an independent and sovereign state, and a separation from Virginia without the sanction of law, the *effect* of which would have been to have detached Kentucky from the United States, and the *object* of which is explained by Wilkinson’s engagement with and letters to Miro, and by the overture of Gardoqui to John Brown, of both of which Wallace had then been informed;—Wallace, who, in this same deposition, concealed the fact that he had himself either offered or seconded, and had advocated a resolution to immediately frame a constitution and had urged an immediate separation from Virginia, and who paid for, published and circulated Littell’s statement that such a “motion was *never made*;”—the ingenuous and candid Wallace—this “Israelite, indeed, in whom there was no guile;”—Wallace replied that he did not recollect that such a proposition as that indicated in the interrogatory had been made by any one in the July convention! Asked the same question of the November convention, of the proceedings of which he was a spectator, he made substantially the same answer thereto. No resolution or motion in those terms having been offered in either convention, the answer can not be said to have been untrue.

Greenup was asked: “Did you in July, 1788, hear a motion made and advocated by either James Wilkinson, Caleb Wallace, Benjamin Sebastian, or the plaintiff (Innes) to separate the then district of Kentucky from the State of Virginia *and the United States, and form a connection with the Spanish government?*” And, of course, he answered that he had not heard such a proposition from any person; for, in fact, no motion in those terms had been made. Asked substantially the same question concerning the November convention, Greenup made the same reply; qualifying it, however, by a reference to the

resolution of Wallace, or Wilkinson, which he made the mistake of saying had been offered at the November convention.

To substantially the same question Isaac Shelby responded: "In no convention of which I was a member, did I ever hear a motion or proposition made by any member, to separate Kentucky from the United States, *and form a connection with Spain*," and that "he never did hear, nor was he ever informed that any member of any convention had made or advocated a proposition to separate Kentucky from the Union, to establish it into a separate government, *and form a connection with any foreign power*;" and that he had never heard John Brown "express a sentence *to him* that *he* understood as having any desire to *attach this country to Spain*."

The identity of the questions and of the answers in these several examinations reveals the objects of the interrogatories, which was to mislead. The answers tell what was *not done*; they are silent as to what *did take place*. It has not been charged that a motion or proposition embracing the terms indicated in the interrogatories had been made or advocated by any one in any convention. The charge was, that the movement to separate Kentucky from Virginia illegally, and to frame a constitution, and organize government, and declare independence without a law for the purpose, was designed by the leaders who advocated it as the first step in the programme which had in view the separation of Kentucky from the Union and an alliance with Spain, as had been distinctly agreed upon between Wilkinson and Miro, and as was as distinctly outlined in Brown's conference with Gardoqui and in his letter to Muter. The questions were framed so that the replies might not meet the issue that was presented. Not one of those witnesses, nor any other, was asked a question or gave an answer which directly or by implication impeached the accuracy of Colonel Marshall's statement concerning what Brown had said in the convention, or was inconsistent therewith. So far as their testimony bears upon the subject at all, it contradicts that of Brown

as made by Littell, and leaves that of Marshall undisputed.\*

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\* The following is the full text of the letter of Colonel Marshall to which reference has been made:

*Fayette County, 12th February, 1789.*

DEAR GENERAL:

The nature of the subject upon which I do myself the honor to address you, will I hope be admitted as an excuse for the trouble you will have in reading this letter. The political situation of this western country appears to me to be some thing critical, and therefore I have undertaken, though reluctantly, to give you a state of facts preceding our present situation, so far as they have fallen within my knowledge.

In the spring, 1787, General Wilkinson went to New Orleans with a cargo of tobacco, etc., and was requested by the governor of that place to give his sentiments freely, in writing, respecting the political interest of Spain and the Americans of the United States inhabiting the western waters. This he did in an essay, as he calls it, contained in about 15 or 20 sheets of paper. I saw the governor's letter to him acknowledging the receipt of it, and informing him that he would lay it before the king of Spain; a copy of this essay he produced and read in our late convention held for the district; and as well as my memory (which I acknowledge is not very accurate) serves me, the substance of it is as follows:

He urges our natural right of following the current of the rivers flowing through our country into the sea. He states the extent of our country, the richness of our soil, abounding in choice productions proper for foreign markets, to which we have no means of conveying them, should the Mississippi be shut up against us. He states the advantages Spain might derive from allowing us the free use of that river. He goes on to show the rapid population of this country, and the eagerness with which every individual looks forward to that navigation. He states the general abhorrence with which the people of the western waters received the intelligence that Congress was about to sacrifice their dearest interest by ceding to Spain the navigation of the Mississippi for twenty or thirty years, and represents it as a fact that they are on the point of separating themselves totally from the Union on that account.

He addresses himself to their fears by a pompous display of our force, and urges that should Spain be so blind to her true interest as to refuse us an amicable participation in the navigation of that river, and thereby force us into violent measures, "Great Britain stands with her arms expanded ready to receive us," and assist our efforts for the accomplishment of that object, and quotes a conversation he had a few years ago with a member of the British Parliament to that effect. He states the facility with which their province of Louisiana might be invaded by the united forces of the British and Americans, by means of the river Illinois, and the practicability of proceeding from thence to their province of New Mexico, it not being more than twenty days.



### The statement of Brown's answer in the convention to

Britain, he says, will in that case aim at the possession of Louisiana and New Orleans for herself, and leave the freedom of the navigation to America; and urges pretty forcibly the great danger the Spanish interest in North America would be in from the British power, should that nation possess herself of the mouth of the Mississippi, and thereby hold the two grand portals of North America,—that river and the St. Lawrence; and concludes with an apology for the freedom with which he has treated the subject, and adds, that it has at their own particular request been drawn from a man “whose head may err, but whose heart can not deceive.”

This essay has, I am told, been laid before the Court of Madrid; and as a violent separation from the United States seems to be laid down as the ground work upon which every other consequence depends, I think it probably has produced instructions from that Court to the Spanish resident at Congress, that if the Western country should declare itself separate from the Union, to avail himself of that event. I found this conjecture upon Mr. Brown's confidential letters from Congress to his friends in this district; some of those letters I have seen.

He mentions that in a private conversation, which he had with Don Gardoqui, he was informed that so long as this country remained a part of the Union, we had nothing to expect from Spain, but were we to declare ourselves separate from, and independent of, the United States, he was authorized to treat with us respecting commerce and the navigation of the Mississippi.

Mr. Brown, having returned from Congress, was called upon in Convention in November last, to give such information respecting our affairs in Congress as might be proper for us to know. He told us that he did not think himself at liberty to mention what passed in private conversation between himself and Don Gardoqui respecting us; but this much he would venture to inform us, that provided we were united in our councils, every thing we could wish for was within our reach;—meaning, as it appeared fully to me, that if we would assume government and declare separate from the Union, Spain would give us every indulgence we could ask for.

About this time arrived from Canada the famous Doctor (now Colonel) Conolly; his ostensible business was to inquire after, and re-possession himself of, some lands he formerly held at the Falls of Ohio; but I believe his real business was to sound the disposition of the leading men of this district respecting this Spanish business. He knew that both Colonel Muter and myself had given it all the opposition in convention we were able to do, and before he left the district, paid us a visit, though neither of us had the honor of the least acquaintance with him.

He was introduced by Colonel John Campbell, formerly a prisoner taken by the Indians, and confined in Canada, who previously informed us of the proposition he was about to make. He (Conolly) presently



the call made on him for information, made by Colonel Marshall to Washington is here repeated :

“ He told us that he did not think himself at liberty to mention what passed in private conversation between himself and Don Gardoqui respecting us; but this much he would venture to inform us, that, provided we were united in our councils, every thing we could wish for was within our reach.”

In the first edition of his *History of Kentucky*, published in 1812, and in the second edition published in 1824,

entered upon his subject, urged the great importance the navigation of the Mississippi must be of to the inhabitants of the Western waters, shewed the absolute necessity of our possessing it, and concluded with assurances that were we disposed to assert our right respecting that navigation, Lord Dorchester was cordially disposed to give us powerful assistance, that his Lordship had (I think he said) four thousand British troops in Canada beside two regiments at Detroit, and could furnish us with arms, ammunition, clothing and money; that, with this assistance, we might possess ourselves of New Orleans, fortify the Balize at the mouth of the river, and keep possession in spite of the utmost efforts of Spain to the contrary. He made very confident professions of Lord Dorchester's wishes to cultivate the most friendly intercourse with the people of this country, and of his own desire to become serviceable to us, and with so much seeming sincerity, that had I not before been acquainted with his character as a man of intrigue and artful address, I should in all probability have given him my confidence.

I told him that the minds of the people of this country were so strongly prejudiced against the British, not only from circumstances attending the late war, but from a persuasion that the Indians were at this time stimulated by them against us, and that so long as those savages continued to commit such horrid cruelties on our defenseless frontiers, and were received as friends and allies by the British at Detroit, it would be impossible for them to be convinced of the sincerity of Lord Dorchester's offers, let his professions be ever so strong; and that, if his Lordship would have us believe him really disposed to be our friend, he must begin by shewing his disapprobation of the ravages of the Indians.

He admitted of the justice of my observation, and said he had urged the same to his Lordship before he left Canada. He denied that the Indians are stimulated against us by the British, and says Lord Dorchester observed that the Indians are free and independent nations, and have a right to make peace or war as they think fit, and that he could not with propriety interfere. He promised, however, on his return to Canada to repeat his arguments to his Lordship on the subject, and hopes, he says, to succeed. At taking his leave he begged very politely the favor of our correspondence; we both promised him, provided he would begin it, and devise a means of carrying it on. He did not tell me that he was authorized by Lord Dorchester to make us these offers in his name, nor did I ask him; but General Scott informs me that he

Humphrey Marshall, in giving an account of John Brown's performance in the convention, published, with quotation marks, the following version, viz :

"That he did not think himself at liberty to disclose what had passed in *private conferences* between the Spanish minister, Mr. Gardoqui, and himself; but this much in general he would venture to inform the Convention—that *provided we are unanimous every thing we could wish for is within our reach.*"

Humphrey Marshall did not think it necessary to name his authority for this quotation, because the letter of Colonel Thomas Marshall had recently been published and widely commented upon, and nearly every well informed reader at the time knew that he repeated the account given by Colonel Marshall, which had remained unchallenged. Butler, in quoting from Humphrey Marshall's History, knew that he had obtained it from Colonel Thomas Marshall, and he accepted it as the true account, while he rejected that given by John Brown himself in Littell as false. The versions of the two Marshalls are identical in sense, and are almost identical in words; the one using the word "mention" where the other says "disclose;" the one using the word "conversation," while the other employs that of "conference;" the one saying "united in council," and the other "unanimous;"—in every case the words employed meaning precisely the same thing, without the difference of a shade in their signification. It is evident that if injustice was done to John Brown, it was by Colonel Marshall, and not by the historian, who simply repeated what he had a right to believe, and what he had obtained from the published statement of one who had

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told him that his Lordship had authorized him to use his name in this business.

It appears plain to me that the offers of Lord Dorchester, as well as those of Spain, are founded on a supposition that it is a fact that we are about to separate from the Union; else, why are those offers not made to Congress? We shall, I fear, never be safe from the machinations of our enemies, as well internal as external, until we have a separate state, and are admitted into the Union as a federal member. I have the honor to be, with the most respectful esteem and regard, your most obedient and very humble servant,

T. MARSHALL.

T. Marshall to General Washington.

been present, a man of intelligence and vigorous mind, whose veracity had never been assailed.

Colonel John Mason Brown casually alludes to the private letter of Colonel Marshall, of the 12th of February, 1789, addressed to General Washington, apparently for the sole purpose of saying that it was published after his death, "when it was too late to test the accuracy of the words used or try his judgment of the facts by cross-examination." In that connection he states that nothing warranting the "alleged quotation" used by Humphrey Marshall, was ever published by Colonel Marshall or upon his authority. Characteristically Colonel Brown omitted to state, that the private letter published after Colonel Marshall's death was identical in sense and nearly identical in words with what he terms an "alleged quotation," and was the historian's ample authority; then, as characteristically, he suppressed what Colonel Marshall had written. His statement that not a few of the delegates to the convention of November, 1788, were called to the witness stand and "under the sanction of their oaths, *repelled* the charge which the 'quotation' insinuated," is so far from being true, that Sebastian and Crockett, the only witnesses who were asked a question or testified one word concerning what Brown had said in answer to the call on him for information, confirmed that charge, which was not "insinuated," but was broadly and boldly stated in connection with that "quotation."

Colonel Brown gives a list of men who were not called, in that suit, to verify the charge that Brown had used the language imputed to him. As Brown was not a party to that suit, and as the truth of Marshall's charges against Innes was alone involved therein, it is unimportant that these men were not made witnesses concerning Brown's utterances. What is significant, however, is, that Colonel Brown not only fails to give a single question asked by Innes discrediting the "quotation" made to the disparagement of his friend, but does not give a single answer which even tends to dispute the accuracy of that "quotation." Alleging that, out of all the depositions taken in that suit, not one "sus-

tains the alleged quotation, or warrants any inference like it," and mentioning that of Sebastian, he suppresses what Sebastian said. And he not only carefully suppresses the statement of Crockett, which fully sustains that written by Colonel Marshall and "quoted" by the historian, but suppresses also the question propounded by Innes, which impliedly admitted the accuracy of Crockett's recollection. He suppresses the fact that the "alleged quotation" was but a reproduction of what Colonel Marshall had communicated to Washington. "The Political Beginnings" details at length what Shelby, Wallace and others did not recollect to have heard. But, while naming John Allen, of Bourbon, as one of the witnesses in that case, and boldly asserting that not one of those witnesses had uttered a word to warrant the charge made by Humphrey Marshall against John Brown, the talented author of the book in question was extremely careful to *omit* what John Allen had said. It might have disarranged his argument somewhat, if he had informed his readers, that Judge Allen had deposed, that, in the November convention of 1788, there was "a strong party in favor of declaring Kentucky independent, and of organizing a government, without applying to the Legislature of Virginia or to Congress for their previous consent. Mr. John Brown was a member of that convention and advocated that measure. Colonel Hary Innes was also an advocate of that measure." The author of the "Beginnings" felt that, after having thus mentioned Allen as one of the witnesses, and having assured the confiding public, that *no* witness had uttered a word to sustain Humphrey Marshall's charges, he could scarcely afford to let them know, that Allen had sworn, that, in the November convention, "there were two distinct parties; the object of one was to endeavor to get a law passed from the State of Virginia permitting Kentucky to be separated from her, to become a new State, to form her own constitution, and to be admitted into the General Government, and be upon an equal footing with the other States of the Union. The other party was for separating from Virginia, *and to form*

*a government independent of her and of the General Government, and to form connections where they should find it most beneficial to her interest."* Innes, Judge Allen testified, was an active member, and he considered him as advocating the course of the latter party as he had stated. The other leaders of the party, which was in favor of separating from Virginia without a law for the purpose, he said, were "General James Wilkinson, who was considered as among the first, Mr. John Brown, Mr. Caleb Wallace, Benjamin Sebastian and some others not recollected." He did not remember whether Adams, of Madison, was in the July or in the November convention, but he did know that he was an advocate of the measure. Nor did he remember whether Caleb Wallace was in the July or November convention, or in both. The evidence of Allen was that of a man who was never asserted to have been animated by personal hostility to Brown, nor by jealousy of him or of any of his associates.\* Nevertheless, it was necessary to suppress his evidence.

Colonel John Mason Brown had read the letter of Colonel Thomas Marshall to Washington. He knew that the "alleged quotation" published in Humphrey Marshall's History was but a repetition of what Colonel Marshall had written. He knew also that this account of what John Brown had said in the convention was corroborated by both Sebastian and Crockett. He suppressed the fact that this account had been thus written by Colonel Marshall,

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\*John Allen was born in James City County, Va., in 1749. Entering the patriot army at the beginning of the Revolution, he rose to the rank of Major. He was well educated and a well trained lawyer. Marrying Miss Jane Tandy, of a respectable family in Albemarle, he came to Kentucky some years prior to 1788, and located in Fayette. Upon the organization of Bourbon, he settled in Paris. He was the first judge of the district court of Bourbon, and afterwards of the circuit court. In point of personal worth and integrity of character, Judge Allen was not inferior to any man in Kentucky of his time, and to but few in point of intelligence and ability. His descendants, many of whom live in Bourbon, Nicholas and Bath, have just cause for pride in such an ancestor. Among them were the late Sandford Allen, of Sharpsburg, and the late Wm. C. Allen, of Owingsville. The present Frank Allen, of Augusta, is his grandson.

an eye and ear witness; that it had been thus corroborated by Sebastian and Crockett, and had never been challenged by a single question, nor disputed by a solitary witness. He then asserted that "Muter never said, wrote, or printed, that Brown *spoke at all* in the convention, much less that he *spoke treasonably*. No memoranda of his have ever been discovered or mentioned corroborative of any insinuation against Brown's acts or opinions in the convention." The extraordinary pains taken by Colonel Brown to suppress the statements made by Colonel Marshall, by Sebastian, and by Crockett, relating to John Brown's speech in the convention, and his repeated claim that the "alleged quotation" originated with Humphrey Marshall, discloses his own sense of the nature of that speech, and his own judgment of the conduct of John Brown, if he had made the speech attributed to him. But the terms in which the above denial as to Muter are made convey a distinct admission, that the speech attributed to John Brown was "*treasonable*," and that if the premise was true the conclusion drawn from it was just. It appears also, that Colonel Brown had searched for some word, or *writing*, or *publication* by Muter, which stated that John Brown had spoken in the convention, and had been unable to find any intimation that John Brown "had spoken *at all* in the convention, much less that he spoke treasonably." Notwithstanding this bold and confident assertion by Colonel Brown, it is certain that Muter not only *wrote*, but *printed*, and published in the *Western World* (a paper with whose columns Colonel Brown was familiar) a letter, August 20, 1806, in which he distinctly stated, that John Brown *had spoken* in that convention, and had "*assured the convention that all they asked for with respect to the navigation of the Mississippi was in their power to obtain*;"—which assurance was given by John Brown in reply to the call on him to inform the convention concerning the communication of Gardoqui; and which statement by Muter is the substance of what Colonel Marshall wrote and Humphrey Marshall "quoted!" Colonel Brown, it will be remembered, had



previously alleged, that Muter had voted for sundry resolutions in the July convention, of which Muter's own letter, published in Littel's "Narrative" (with which Colonel Brown was familiar), showed that he was not a member; and that Muter had then received, and had communicated to Colonel Marshall, John Brown's letter, which Muter's own letter, published in the *Western World*, showed that Muter did not receive until the *fall* of 1788; and that Muter, when he had issued his address of October 15th, 1788, had already conferred with Connolly, whom, as all the evidence shows, Muter had never seen until after the adjournment of the November convention. And now Colonel Brown, with habitual infelicity, adds to the inaccuracies which had preceded it, this denial that Muter had ever said, written, or printed that John Brown "spoke *at all* at the convention, much less that he spoke treasonably!"

While thus admitting, that, if John Brown had spoken in the Danville convention as represented, he had "spoken treasonably," and that, in that case, the charge against him was merited; Colonel Brown labors through limping pages of his "Political Beginnings" to make it appear that this representation was maliciously fabricated by Humphrey Marshall. Knowing thoroughly well the scheme concocted between Wilkinson and Miro; familiar with the writings of Wilkinson to Miro, in which Brown, Innes, Wallace, and Sebastian are mentioned as his associates and abettors in the conspiracy; having before his own eyes the proof that Gardoqui had made a similar proposition to his grandfather, and that the latter had promised Gardoqui to "aid" in securing its acceptance; confronted by his grandfather's letter to Muter, in which he distinctly urged that the necessary step should be taken to place Kentucky in a position to avail herself of Gardoqui's offer, and by the evidence of such men as Allen, Crockett, Thomas Marshall, and others, as to his grandfather's co-operation with Wilkinson and Sebastian in the effort to induce Kentucky to take that step;—in the face of all this, Colonel Brown is bold enough to assert that the "so-called



‘Spanish conspiracy,’ gloomily imagined as concocted with Gardoqui, was but a figment of an incensed political adversary’s brain; a suspicion unsupported by a particle of testimony, unvouched by document, unestablished by deposition, and refuted by every proof.”

After perusing *that*, the reader will not be in the least surprised, that Colonel Brown, with full knowledge that his grandfather had certainly informed both Greenup and Wilkinson of Gardoqui’s proposition; that his “sliding letter” to McDowell was shown at once to Innes, and was known to others in the July convention of 1788; knowing that, in the Littell pamphlet, his grandfather had stated, that he had made a public disclosure of Gardoqui’s proposition in the convention of November, 1788;—the reader will not be surprised, that Colonel Brown, knowing all these facts, and scrupulously and characteristically *suppressing* them, has the hardihood to affirm, that “under the cautious advice of Madison, information of Gardoqui’s communication was thus kept from the knowledge of all persons in Kentucky save McDowell and Muter;” nor will they be in the least astonished at the remarkable coolness with which the grandson, in direct contradiction of his own grandfather, and with the most contemptuous assumption of the utter ignorance of his readers, asserts, that “*Brown recognized the public danger that might come from divulging Gardoqui’s plan,*” and that “*Brown judged it highly inexpedient to narrate even to the sovereignty convention of November what Gardoqui had said, for he feared lest rash men might make trouble by advocating what Gardoqui proposed!*” These suppressions and conflicting statements between grandfather and grandson, in the language of the talented author of the “Beginnings,” “give rise to unpleasant suggestions:” Either Colonel Brown believed, or he did not believe, the statement made by his grandfather through Littell, that, in answer to the call on him for information, John Brown had disclosed to the November convention the proposition of Gardoqui. If he believed that statement to be false, it is unimportant what else he must necessarily have believed of the man who had thus authorized

and circulated a deliberately false statement in his own behalf. Innocence neither needs nor resorts to falsehood for its vindication. But, if Colonel Brown, on the other hand, really discredited the statement of Colonel Marshall that John Brown had said that, provided the convention was united in their councils, all they could wish for was within their reach; and, if he believed that, on the contrary, John Brown had communicated the overture of Gardoqui to the convention, as John Brown himself claimed to have done; and, believing this, and suppressing the statement of his grandfather, and attributing that of Colonel Marshall to Humphrey Marshall, asserted that John Brown deemed it inexpedient to communicate to the convention what Gardoqui had said, "lest rash men might make mischief by advocating what Gardoqui proposed;"—then, the facts have been very feebly stated if intelligent readers are not able to arrive at their own conclusions, as just as they are inevitable, concerning the "Political Beginnings," without suggestions from the writer. There can be no logical escape, however, from the alternatives presented. And whether Colonel Brown believed the statement written by Colonel Marshall to Washington, or that of John Brown, published in *Littell*, his own statement is without any authority whatever, and is contradicted by all the evidence from every source.

## CHAPTER XVI.

THE CONVENTION OF NOVEMBER, 1788, CONTINUED—THE QUESTION OF THE NAVIGATION OF THE MISSISSIPPI BROUGHT UP BY WILKINSON'S MEMORIAL AND THE OVERTURE OF GARDOQUI—THE PROSPECT OF OBTAINING THAT NAVIGATION, ON THE TERMS OF WILKINSON'S ENGAGEMENT WITH MIRO AND THE OVERTURE OF GARDOQUI TO JOHN BROWN, THE MOTIVE OF THE WILKINSON AND BROWN PARTY FOR THEIR HOSTILITY TO THE ADDRESS TO THE VIRGINIA ASSEMBLY, AND FOR THEIR SUPPORT OF JOHN BROWN'S RESOLUTION FOR AN IMMEDIATE FRAMING OF A CONSTITUTION AND SEPARATION FROM VIRGINIA WITHOUT A LAW FOR THE PURPOSE—THEIR OWN STATEMENT IN LITTELL TO THAT EFFECT—MORE OF COLONEL BROWN'S SUPPRESSIONS—COLONEL BROWN CONVICTED OF A WANT OF CANDOR BY HIS OWN STANDARD—COLONEL MARSHALL'S LETTER OF SEPTEMBER 11, 1790, SHOWS HE MADE NEITHER RETRACTION NOR QUALIFICATION OF HIS CHARGES—FURTHER MISREPRESENTATION BY JOHN BROWN—IT IS REPEATED BY COLONEL BROWN—JOHN BROWN'S FAILURE TO DEFEND HIMSELF—HE SHRINKS FROM TESTIFYING—HIS ALLEGED MEMORANDA OF HIS TESTIMONY BEFORE THE LEGISLATIVE COMMITTEE CONTRADICTED BY HIS OWN DEPOSITION.

To the reader who derives his information solely from the perusal of "The Political Beginnings," it would appear, that the subject of the navigation of the Mississippi came before the convention of November, 1788, solely during the discussion of the petitions from Madison and Mercer, (that an address to Congress to obtain that navigation should be drawn), upon the resolution that the address should be prepared, and upon that address itself.\* Yet it distinctly appears from Littell, whose authorized statement had been carefully studied by Colonel Brown, that the question of that navigation was brought before the convention by General Wilkinson, and by John Brown, under circumstances having no connection with those petitions, having no relation to that resolution nor to that address; but which circumstances did refer exclusively to

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\* "Political Beginnings," pages 198-99.

Wilkinson's conference with Miro, and to the overture made by Gardoqui to John Brown;—which conferences and overture (that Spain would grant the navigation to Kentucky, as a matter of treaty, if Kentucky would first withdraw from the Union), were authoritatively stated by Littell as the *motive* for the opposition made by Wilkinson, Brown, Innes, Sebastian, and their party, to Edwards' address to the assembly for an act of separation agreeable to the advice of Congress, and for their urging the resolution of John Brown, which looked to an immediate and illegal separation, to an immediate declaration of independence and assumption of sovereignty, in order to avail themselves of the "prospect" held out by that conference and overture. The address to Congress to obtain the navigation of the Mississippi, as the reader has seen, was not adopted until the last day of the convention, after all the schemes of Wilkinson and Brown had failed, and Wilkinson had been driven to postpone them under pressure of the remonstrance presented by Crockett. Colonel Brown makes no mention of the memorial to the Intendant of Louisiana, which Wilkinson had concerted with Navarro and Miro, which he had read in the convention, which had been forwarded to Madrid, and the effect of which was the direction to Gardoqui that induced his overture to John Brown. He quotes from depositions of members of the Danville convention, but suppresses every statement in those very depositions that the memorial was read in the convention. He does, however, mention the address to Congress which was finally adopted, and was prepared and read by Wilkinson, and states that, "after a vote of thanks to Wilkinson, for his paper on the Mississippi," the convention adjourned, leaving the otherwise uninformed reader to suppose, that the "*paper on the Mississippi*" for which Wilkinson was thanked was the address to Congress on that subject:—when the depositions, the official report, the statement of Littell, all of which he had read, and every other statement ever published, explicitly informed him, that the paper in question, for which Wilkinson was thanked, was the "address presented

by General James Wilkinson to the Governor Intendant of Louisiana." The failure of Colonel Brown to mention this memorial, or to state that it was read in the convention, his suppression of the fact that the question of the navigation of the Mississippi was brought before the convention by that memorial\* and by John Brown's state-

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\* While Wilkinson, after doing what was in his power to defeat the address to the General Assembly, yielded to the desire that an appeal should be made to Congress to obtain the navigation of the Mississippi, which he knew Congress could not do, he explained to Miro that the failure of Congress to accomplish the impossible could be used to still further exasperate the people and to aid the designs of Spain. At the same time he advised Miro that Spain should stand firm, refuse to accede to the applications of Congress in behalf of the just rights of the western people, and close more completely than ever that navigation against all but himself and his associates. Every relaxation of rigor, he argued, would tend to postpone and defeat the Spanish designs; while the greater the hardships which the people could be forced to feel would the more rapidly and certainly promote those designs. But let Wilkinson speak for himself, viz:

"In order to aid the favorable dispositions of Providence, to *foment the suspicions and feelings of distrust already existing here, and inflame the animosity between the eastern and the western states*, Spain must resort to every artifice and other means which may be in her power. I have stated that the navigation of the Mississippi, and its admission as an independent state and a member of the Union, are rightly claimed by the people of this part of the country, and constituting one of the principal conditions under which its connection with the Atlantic States is to continue. Hence it follows, *that every manifestation of the power of Spain and of the debility of the United States, every evidence of the resolution of the former to retain exclusively for herself the right of navigation on the Mississippi, and every proof of the incapacity of the latter, will facilitate our views.* Every circumstance also that will tend to impede our admission as an independent state will lessen the attachment of many individuals, increase the discontent of the people, *and favor the execution of our plan!*

"Until I devoted myself exclusively to the affair in which we are engaged, I confess that I could not discover the aim of the first treaty proposed by Gardoqui to Congress, but it seems to me now that I can penetrate its policy. I consider it as profoundly judicious, and I am of opinion that it ought to be renewed and vigorously carried on, until its objects be attained, cost what it may, because, besides that the proposed relinquishment of the right of navigation of the Mississippi would immediately disrupt the Union, and separate forever the West from the East, the sanction of the treaty by Congress would make our situation so truly desperate that Great Britain would not venture to intervene in our favor and all our hopes would rest on the liberality of Spain. . . .

ment, that all that could be wished for concerning that navigation could be obtained, on the terms communicated to him by Gardoqui, was not accidental. And the course of Colonel Brown in reference thereto reveals his own sense of the damaging character of the facts he suppressed to the cause he had undertaken.

Colonel Brown, in his "Political Beginnings," states, that the official proceedings of the convention \* note the resolution of John Brown as having been offered on the fourth day of the convention, *immediately after* the committee of the whole reported that the petitions from Mercer and Madison were reasonable, and that a decent and manly address to Congress should be drawn accordingly; and that this resolution was offered "*before* the committees were ready with their reports." But the very official manuscript to which he refers, and which is reproduced in the appendix of his most elaborate literary effort, shows

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The grant of this boon ought to be looked upon *as the price of our attachment and gratitude*, and I beg leave to be permitted to repeat, *that there must be known no instance of its being extended to any other than those who render aid and promote the interests of Spain in this part of the country.*

"I entreat you, sir, to believe, that this question of navigation is the main one on which depends the Union of the West and East, and that, if Congress can obtain the free use of the Mississippi, and if Spain should cede it *without conditions*, it would strengthen the Union, and would deprive Spain of all its influence on this district." [Wilkinson's letter to Miro, February 12, 1789, Gayarre, pages 230, 231, 232.]

\* On the 199th page of the "Political Beginnings," after publishing the resolution of the convention that the petition from Madison and Mercer were reasonable, and that an address to Congress be drawn accordingly, and stating the names of the committee charged with preparing the address, Colonel Brown says:

"*At this point*, and *before* the committees were ready with their reports, the manuscript journal notes the following resolution, which it is certainly strange that Marshall should not allude to while rehearsing the conduct of his enemy."

Colonel Brown then publishes the resolution of John Brown, which has been already quoted, and which John Brown explained in Littell, was offered to *defeat* the address to the Assembly, and as a motive for adopting which the "prospect," of obtaining the navigation of the Mississippi [in what manner the reader knows] was hinted at.

that this statement is not true.\* On the contrary, Colonel Brown's own book contains the proof,† in that official statement, that the special committee, consisting of John Edwards, Thomas Marshall, Muter, Jouitt, Allen and Wilkinson, which had been appointed the day before to prepare "a decent and respectful address to the Assembly of Virginia for obtaining the independence of the district of Kentucky agreeable to the late resolution and recommendation of Congress," had, through its chairman, Edwards, made its report, which was read, immediately *after* the committee of the whole had reported the resolution for addressing Congress in accordance with the petitions from Madison and Mercer, and *before* the resolution of John Brown was called up by him. Colonel Brown was made aware by Littell, that an amendment to that address thus reported by the committee was offered in order to delay it; that its consideration was postponed; and that the resolution of his grandfather was *then* called up, for the purpose, as stated distinctly in Littell's pamphlet, of

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\* After giving the resolution to prepare the address to Congress concerning the Mississippi, the official report, which Colonel Brown had before him when he made the statement above referred to, proceeds as follows, viz:

"Ordered, That a committee be appointed to prepare the said address; and a committee was appointed of Mr. Innes, Mr. Wilkinson, Mr. Marshall, Mr. Muter, Mr. Brown, Mr. Sebastian and Mr. Morrison.

Mr. *Edwards*, from the committee appointed to draw up an address to the Assembly of Virginia for obtaining the independence of the district of Kentucky, reported that the committee had taken the matter into consideration and prepared an address which he read in his place, and then delivered the same in at the table, where it was again read, and an amendment thereto proposed. Ordered, That the said address, together with the amendment, do lie on the table.

A motion was made by Mr. Brown for the convention to come to the following resolution, viz."

Then follows the resolution of John Brown, which has already been quoted. The above is copied precisely as it appears in the Appendix of the "Political Beginnings," and contradicts the statement of the author of that book, in which it is difficult to determine whether Colonel Brown's contempt for the facts or his contempt for his readers is made the more conspicuous.

† The Appendix of "The Political Beginnings" was prepared after the death of its author, by a gentleman unacquainted with the subject.



defeating that address, and to give an opportunity for urging an immediate formation of a constitution, the organization of government and the declaration of independence, without a law from the Assembly for the purpose. And while Colonel Brown affirms, that "whatever mark Brown made in the convention is to be found" in that resolution, which he asserts to have been Brown's "*real avowal of political principle and plan,*" he carefully avoids giving the explanation of that "principle and plan" afforded by John Brown himself in Littell. This plan was, that, "as a further inducement to adopt this resolution it was stated that *there was a prospect of obtaining from Spain permission to export the produce of the country by way of the Mississippi,*" and that, then, to show what the *prospect was*, General Wilkinson made his speech and read his memorial, and John Brown disclosed the overture of Gardoqui! Wilkinson, Brown, Sebastian and Innes, all knew that the "prospect of obtaining from Spain the permission" in question was made contingent upon the separation of Kentucky from the United States, which Wilkinson had engaged with Miro to promote, and John Brown had promised Gardoqui to "aid." The first step to be taken in the accomplishment of that separation from the Union was to separate from Virginia without a law for the purpose, to frame a constitution, organize government, declare independence, and assume sovereignty,—to all of which John Brown's resolution was intended as a preliminary, and the *effect* of which would have been to place Kentucky outside of the Union. The resolution was, in fact, a redemption of Brown's promise to the Spanish minister. And, as an inducement for its adoption, the *prospect* of obtaining the navigation of the Mississippi from Spain was stated;—which John Brown knew could be realized only by a separation from the Union. The statement in Littell is, in fact, when analyzed, a confession by John Brown himself of all the charges made against him. This was, indeed, his "plan," and this his "political principle." The pretense that, after realizing that prospect in the way pointed out by Gardoqui, it was the

purpose of these men to apply for admission to the Union, which would have forfeited the privilege thus obtained, is too transparently absurd to require argument for its refutation. This absurdity was apparent to John Brown himself; he, therefore, suppressed the Muter letter, which would have made the absurdity plain to all, conceded the condition annexed by Gardoqui, and pretended that the privilege could be had by Kentucky as an independent state of the Union.

The reader of the "Beginnings" will not fail to note that, while mention is made of the appointment of a special committee to prepare an address to the Assembly of Virginia, of which committee Edwards was the chairman, yet it nowhere appears that Edwards ever reported or read the address in the convention. On the contrary, the statement of this fact, which is made in the official report, is eliminated from the account given in the "Beginnings," in which it is stated, that the resolution of John Brown was called up "at this point," when in fact the statement is made in the official report, that at "that point" Edwards read the address to the Assembly. Why Edwards was thus ignored is explained by the statement which appears on page 201 of the "Beginnings," in reciting the proceedings of the *last* day of the convention, that "the address to the Legislature of Virginia was next reported by Mr. Innes, and 'agreed to *nemine contradicente*.' Its tone was loyal and its expressions respectful and judicious." In a note at the bottom of this same page appears this statement: "This address to the Legislature of Virginia, is given by Marshall (Vol. I, p. 379, edition of 1812), but he *uncandidly* omits to mention that his enemy, Innes, *was its mover*. The manuscript journal of the convention explicitly recites that Innes, *as chairman of the committee, reported* the address, "which he read in his place and delivered in to the clerk's table, where it was again twice read and amended and agreed to *nemine contradicente*." There is no intimation given in this connection, that this proceeding was in the *committee of the whole*, and the reader would naturally infer that Innes had made this report to the con-

vention as *chairman of the special committee charged with preparing the address*. On page 205 this charge of unfairness and want of candor on the part of the historian is repeated: "No less unfair is Marshall's total failure to mention *Innes* as the *reporter* of the address to the Legislature of Virginia. That address is replete with sentences that declare the ardent desire of the people of the district to be received into the Union as an independent state upon the consent and recommendation of Congress. Mention of *Innes* as its *mover* and *advocate* would have vindicated his patriotism, his loyalty, and his moderation, and would have *disproved* all the suspicions that Marshall cherished. And the further fact, apparent from the journal, that the address *prepared* and *reported* by *Innes*, was 'agreed to *nemine contradicente*,' would have suggested to a more candid historian, that he who *introduced* and *advocated that paper* did not deserve the denunciation leveled against him as a disloyal conspirator, especially as his views were supported by the unanimous vote of the convention. It might, perhaps, be suggested in excuse for such omissions that Marshall, while preparing his history, had not access to the original journals of the convention, nor accurate information of what was said and done. But he published his book in 1812, and certainly knew, after 1806, the exact text of the journals through *Littell's* publications made that year, and avowed to be an appeal to documentary evidence."

But, if the statements of Colonel Brown are true, the historian did worse than this. His "History" shows that he had a copy of the official journal before him as he wrote. Yet he not only *omitted* to state that *Innes* was the mover, advocate, author and reporter of the address to the assembly, but he did state that it had been moved by John Edwards and seconded by Thomas Marshall, on the third day of the convention, and that Edwards had *reported* and *read* it to the convention on the fourth day, when it was amended, in order to defeat its passage. If *Innes* had, indeed, *moved, prepared, reported* and *advocated* this address, the fact would have demonstrated, that, in-

stead of having been a coadjutor and a conspirator with Wilkinson, Sebastian and Brown, he had been the leader of the opposition to their schemes; and would, in truth, have vindicated his patriotism and loyalty against attacks from any source. And had that been true, the course of the historian in omitting to give him the credit that was his due, and assigning it to Edwards and Thomas Marshall, would not simply have been unfair and uncandid, but would have spread its taint of deliberate falsehood to every statement in his book, and have stamped his own character as dishonorable and infamous.

But, in thus boldly assailing the fairness and "historic veracity" of the historian, Colonel Brown should at least have been careful that his own statements conformed to the facts established by the very official report which he cited, and the contents of which he unquestionably knew and understood. That report proves, that Innes was not, in fact, the mover of the resolution, nor its advocate, and that he neither prepared nor reported the address. It shows that the resolution to prepare the address was moved by John Edwards, and was seconded by Thomas Marshall,\* on the *third* day of the convention. The same

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\*The following is the official report of the proceedings relating to this resolution on Wednesday, November 5th, the third day of the convention, viz.:

"Ordered, That the resolution for preparing an address to the Assembly of Virginia be now read, . . . then the same was read, amended and agreed to as follows, viz.:

"*Resolved*, That a committee be appointed to draw up a decent and respectful address to the Assembly of Virginia for obtaining an independence of the district of Kentucky, agreeable to the late resolution and recommendation of Congress, and that they prepare and report the same to the convention to-morrow. And a committee was appointed of Mr. Edwards, Mr. Marshall, Mr. Muter, Mr. Jouitt, Mr. Allen, and Mr. Wilkinson."

The naming of Edwards first on the committee, constituting him chairman thereof, shows that *he* offered the motion; and the place of Marshall as *second* on the committee that *he* seconded it. Innes was not even on the committee, and had nothing to do with the resolution, except to try to defeat it. All the historians affirm the resolution to have been offered by Edwards and seconded by Marshall. The state-

official report proves that the address itself was prepared by this committee, of which Innes was not a member, and was reported and read by its chairman, John Edwards, on the fourth day. So far from Innes having moved, prepared, reported, or advocated it, he was not only not a member of the committee that had the address in charge, but was one of those described by Littell as being "*opposed to it in toto.*" An amendment to the address was offered in order to prevent action upon it, and then John Brown's resolution, of which Innes *was an advocate*, was introduced, as explained by Littell, to defeat it altogether.\* All this time Innes was an advocate and supporter of every measure designed to defeat the address to the assembly and the whole policy of applying to Virginia. He was, in fact, one of those who were, as described by Littell on his own authority, opposed to the policy of that measure "*in toto.*" On Saturday, the sixth day of the convention, after Brown's resolution had been defeated, the address to the assembly was referred to the committee of the whole, that it might there be still killed or crippled. It was not until the *last* day of the convention, when the conspirators knew they had failed; that their efforts to corrupt the loyal heart of Kentucky had been futile; and when their Spanish-bought leader, Wilkinson, had been awed by the remonstrance which had been obtained and presented by Crockett;—it was not until then, that the address to the assembly, which had been moved, drawn and reported and read by Edwards, was amended and adopted in the committee of the

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ment of Colonel Brown is without any authority, and originated in what he deemed the necessities of his case.

\*In this false claim that Innes had *moved, advocated, prepared and read* that address to the assembly, the reader will detect the motive of Colonel Brown in eliminating from his account the statement of the official journal that the address was reported from the committee and was read by Edwards on the fourth day of the convention; and for his assertion that, "*At this point*"—immediately after the address to Congress was ordered to be prepared,—"*and before the committees were ready with their reports,*" the manuscript journal notes, the resolution was called up by John Brown."

whole, of which Innes was chairman for the time being. His purely perfunctory report, as chairman of that committee of the whole, of the action of that committee in amending and adopting the address, which, as already stated, had been moved, prepared, reported, read and advocated by Edwards, and resisted to the last by Innes, Wilkinson, Sebastian, Brown and all their followers, was all that Innes had to do with that address. Had Humphrey Marshall taken from the able and patriotic Edwards the credit that belonged to him, in order to confer it upon Innes, who had, in the July as well as in the November convention, vehemently resisted the whole policy which finally triumphed in the adoption of that address, it would have proved him as wholly unmindful of the claims of "historic veracity," as Colonel Brown has shown himself to have been. It is unnecessary that the reader shall proceed to pass judgment upon Colonel Brown by the standard he applied to Humphrey Marshall in his own misrepresentation of the facts and of the record. His own judgment of his own performance may be read in his own unjust accusations against the fairness and candor of the historian. And if Innes can only be vindicated by so gross a misrepresentation of all the facts, his case is, indeed, as desperate as Colonel Brown evidently regarded it when he resorted to this line of defense.

During the controversy of 1806, the villification to which the friends of Brown, Innes, Wilkinson, and Sebastian resorted, in default of facts and argument, drew from his family the publication of Colonel Marshall's letter to Washington. After that publication, John Brown, Innes, and Wallace made a weak attempt to break the force of the account given in that letter of the memorial of their friend Wilkinson, of John Brown's letter to Muter, and of his ambiguous allusion in the convention to his conference with Gardoqui, by alleging that Colonel Marshall's judgment at the time was warped by prejudice against them as the rivals and enemies of his family. They also claimed that he soon became convinced of the injustice of his suspicions, and in a second letter to Washington had retracted

what he had written in the first. In the ninth chapter of Littell it was alleged as the "true state of those transactions," that

"Colonel Marshall considered General Wilkinson and Mr. Brown as the popular rivals and personal enemies of his family. He became suspicious, and communicated his suspicions to the Executive of the United States. Upon better consideration and strict observation of the conduct of these gentlemen, he became convinced that his suspicions were not well founded, and that whatever ill-will they might have against him and his connections, they had none against the United States; and with a magnanimity which all parties must approve, informed the Executive that the suspicions he once had against them no longer existed."

In other places in that pamphlet substantially the same statement is repeated. There never was any political or other rivalry between either Wilkinson or Brown and Colonel Marshall, nor any political collision between them except in his successful efforts to counteract their schemes before the people, and to defeat their plots in the convention. So far from cherishing any personal animosity against Wilkinson on account of the debate between the latter and Humphrey Marshall, in 1786, the nature of which has been stated, Colonel Marshall, a few months after, recommended him, in conjunction with Isaac Shelby and Colonel R. C. Anderson, as suitable persons to treat with the Indians, for which duty all three were well qualified. There had been, however, a personal altercation between Wilkinson and Colonel Marshall, growing, as stated by a son of the latter, out of "persistent attempts of Wilkinson to translate Colonel Marshall's property to himself," and the latter's refusal to have any business transaction with a man who damaged every one who trusted him. But no one who will read Wilkinson's letters to Miro will contend for a moment that the statement affecting him or his memorial made by Colonel Marshall was in the least degree colored by prejudice.

There had been a violent difference between Hary Innes and some of his connections and Humphrey Marshall, in 1788, in which neither Colonel Marshall nor any other member of his family had any share or participation. Besides, the name of Innes was not even so much as mentioned, nor is



there the most distant allusion to him, in Colonel Marshall's letter. There had been no political or other rivalry between Brown and Colonel Marshall, or Humphrey Marshall, or any other member of that family. The fact is, that when those events were transpiring, Colonel Marshall had but two sons in Kentucky: Alexander Keith, who was but eighteen, and Louis, who was but fifteen years old when that letter was written. It appears from the letter of Muter, published in 1790, that James M. Marshall was not in the district when the letter of John Brown was received, and even if he had settled in Kentucky when the letter to Washington was written, he had not been here long enough to have had any political rivalry with any one. The race he made against John Brown for Congress did not take place until the summer of 1790, eighteen months after the date of the letter, which these men alleged to have been the emanation of jealousy and personal spleen. With these facts, the men who induced Littell to publish the untruth, who paid him for writing the untruth, and who gave it circulation, were well acquainted. The facts were stated in Colonel Marshall's letter as they existed and without coloring. The conclusions drawn from the facts related were irresistible. The letter ought to have been written. The time of writing it was opportune. It was seemly and right that the duty was performed by the man who accepted the responsibility. It was not written as a matter of gossip, but to make known the situation to one who had been chosen as the Chief Executive. And the names of the two men whose direct dealings with the Spaniards, and whose engagements to further the Spanish designs, were made apparent by their own writings and utterances, were alone mentioned.

The claim that Colonel Marshall had, in his letter of September 11, 1790, retracted what he had written on the 12th of February, 1789, was founded on a passage in Washington's reply, which read as follows:

“ PHILADELPHIA, 6 *February*, 1791.

*Sir:*—In acknowledging the receipt of your letter of the 11th of September, I must beg you to accept my thanks for the pleasing communication it

contains of the good disposition of the people of Kentucky towards the government of the United States.

I never doubted that the operations of this government, if not perverted by prejudice or evil designs, would inspire the citizens of America with such confidence in it, as effectually to do away those apprehensions, which, under the former confederation, our best men entertained of divisions among ourselves, or allurements from other nations. I am therefore happy to find, that such a disposition prevails in your part of the country, as to remove any idea of that evil, which a few years ago you so much dreaded." [Sparks Life and Writings of Washington, Vol. X, page 137.]

General Washington's mention of the "pleasing communication" contained in Colonel Marshall's letter of September 11, 1790, "of the *good disposition* of the *people* of Kentucky," was deceitfully construed by Brown, Innes, and Wallace as evidence that Colonel Marshall had, in the letter to which Washington's was a reply, either retracted his statement of facts in regard to the memorial of Wilkinson and the letter and speech of Brown, and admitted himself to have been a falsifier; or else that he had stultified himself by writing that the irresistible conclusions he had expressed were unwarranted by those facts;—for the claim that he had retracted meant nothing if it did not mean one or the other. But that Colonel Marshall's statement of the good disposition of the *people of Kentucky*, in 1790, did not warrant the inference that he had retracted what he had written concerning the memorial, letters, speeches and actions of Brown and Wilkinson, in 1788, is too patent for argument. That it was altogether a false and absurd inference was well known by the men who used it as a screen.

Brown, Innes, and Wallace all knew that this letter of Colonel Marshall of the 11th of September, 1790, which they claimed to have been a retraction, was written immediately after the election in which John Brown and Colonel Marshall's son, James M. Marshall, were the opposing candidates for Congress; that James M. Marshall, whose judgment was naturally influenced by the opinion of one of his father's strong mind and character, had in that canvass openly charged that John Brown and Wilkinson had been engaged in a treasonable conspiracy to separate

Kentucky from the Union and to form an alliance with Spain; and that he had been on the point of fighting a duel with James Brown, because, when he stated the contents of John Brown's letter to Muter as the basis of the charge, James Brown had denied that such a letter had been written and had imputed to him a disregard of truth. They knew that the one thing in the world more improbable than that James M. Marshall had made those charges after his honored father had changed his opinion and confessed his error, was, that, immediately after such a charge had been made by his son in public, under the influence of his own boldly expressed opinions, Colonel Marshall should have written a *private* letter to Washington retracting his own previous statements and acknowledging himself to have been mistaken! The absurdity of the claim must have diverted the men in whose behalf it was made. For they knew that at the time Colonel Marshall wrote the letter of February 12, 1789, which they claimed was dictated by a spirit of animosity towards Brown and Wilkinson as the political rivals of his family, there had never been such a rivalry. They knew, too, that the letter, which they asserted was one of retraction and admission of previous injustice, was written within a few weeks after that rivalry had commenced. These men knew from the contempt which Colonel Marshall took no pains to conceal, and from his bearing toward them during all the remainder of his life, that the opinions he had avowed to their faces much more explicitly than they were stated in his guarded letter to Washington, had undergone neither change nor modification; and every fact demonstrates their positive knowledge, that in all they caused to be written and published on the subject there was not one word of truth.

Following closely in the footprints of his grandfather, as they appear in Littell, Colonel John Mason Brown asserts in the "Political Beginnings" that:

"It was but a short time before Thomas Marshall very clearly saw how unjust were his suspicions, and he very honorably repaired whatever injury his letter of 12th of February might have done. He soon

became convinced that he had wronged both Brown and Innes, and on the 11th of September, 1790, wrote to Washington assuring him of the entire absence of sedition or appearance of it, and of the 'good disposition of the people of Kentucky toward the government of the United States.'"<sup>\*</sup>

Here is a distinct statement by Colonel Brown that Colonel Marshall in a short time saw the injustice he had done to John Brown and Hary Innes in his letter to Washington, of February 12, 1789 (in which he knew perfectly well that there was not the slightest allusion to Innes); and that in his letter of 11th of September, 1790, he had repaired the injustice—of course by a withdrawal. In a note at the bottom of the page on which this was written in the "Political Beginnings" (page 211) Colonel Brown cites his readers to page 520 of the Appendix to Butler's History of Kentucky, edition of 1836, for Colonel Marshall's letter of February 12, 1789; and on page 208 he quotes the conclusion of that letter which is printed on page 522 of the same book, to which he refers. On the very next page, (523) of that book, of that edition, and in the *same leaf* which contained the part of the first letter quoted by Colonel Brown, appeared Colonel Marshall's second letter to Washington—the letter of September 11, 1790—the letter which Colonel Brown's grandfather and Colonel Brown himself affirm was a letter of retraction,—a letter in which they allege he very honorably repaired the previous injustice he had done by accurately describing the contents of Brown's letter to Muter and relating Brown's ambiguous and shirking words in the convention! This letter was printed in the very book used by Colonel Brown. Whether he had read and knew its contents, and well comprehended their purport, when he coolly and deliberately wrote the description of it which appears in the "Political Beginnings," the reader can conclude for himself. His grandfather and Hary Innes did not have the letter itself before them, but disingenuously drew from Washington's reply what they knew to be a false implication and a forced and absurd inference. But

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<sup>\*</sup> Political Beginnings, page 211.

in the very book which Colonel Brown used and studied, and on the next page to the page, and on the same leaf, that contained the extract which he quoted from the letter of February 12, 1789, is also published the alleged letter of retraction of September 11, 1790. Colonel Brown did not refer his readers to Butler for the second letter. He did not let them know that it had been obtained from Dr. Jared Sparks and had been published by Butler on page 523 of that edition of his History (1836). That fact, as well as the letter itself, he suppressed. Was or was not the reason he did this because that letter on its own face shows that all that his grandfather, and Innes and Wallace procured to be written and published concerning that letter, and all that he himself wrote in regard to it, was untrue. The letter is reproduced exactly as it appears in Butler, exactly as Colonel Brown, if he was not the most careless reader in the world, and unless all appearances deceive,—read, knew and understood its contents, viz :

WOODFORD COUNTY, September 11, 1790.

*Sir*:—I have taken the liberty to inclose you a Kentucky paper wherein is published an extract from one of Mr. Brown's letters respecting the Spanish business. My reason for doing this is, that you may judge how far it confirms a representation I formerly had the honor to make you on that subject. The part I then publicly took in this affair has entirely excluded me from any knowledge of his subsequent communications to his confidential friends.

You will discover by the paper I send you to what lengths matters have been carried. Every thing relative to this matter on the part of Mr. Brown, has, by his friends and coadjutors, been denied or concealed, which has produced a necessity for the inclosed publication. I shall only take the liberty of adding that a great majority of the people of this district appear to be well disposed to the government of the United States, though they have, through the influence and industry of his confidential friends, again elected Mr. Brown to Congress; and that our official and influential characters having taken the oath to support the general government, together with the position the Continental troops have taken, in my opinion, leaves us little to fear at present from the machinations of any Spanish party.

That God may bless and preserve you, and that the United States may long continue to enjoy the happiness of your government and protection, is the most fervent prayer of one who has the honor to be,

with the most respectful esteem and sincerity, your most obedient and very humble servant,

T. MARSHALL.

T. Marshall to General Washington.

The reader, at a glance, will see that, in this letter, Colonel Marshall inclosed to Washington the extract from John Brown's letter to Muter, which James M. Marshall had obtained and published a few days before in the *Lexington Gazette*,—as a *proof* of the correctness with which he had described its contents in the letter of February 12, 1789. That to him “a *great majority* of the *people*” of Kentucky appeared to be “well disposed” toward the government,—*notwithstanding* they had just elected a man concerning whose conduct his opinions had undergone no change; but who had, by denials, concealments, evasions, and subterfuges, paltry and pitiful equivocation to sly treachery, incurred his unutterable contempt; a contempt, it may be remarked, which was openly expressed by those who had opposed John Brown's schemes, and which was scarcely concealed by the indifferent, while that secretly entertained by his coadjutors was communicated by Wilkinson to Miro, and its record placed among the Spanish archives;—a contempt, it must be added, which no one ever feels for the man who, however wrongful his cause may be, boldly avows it in the face of the world, and, putting fortune and life to the hazard, and throwing himself, sword in hand, into the imminent breach, courageously stands by it to the bitter end. The letter which is claimed to be a retraction is a reiteration of the first.

Colonel Brown might also have read in the same Appendix to Butler a third letter from Colonel Marshall to Washington, in which he indicated that, in 1792, he was as far from making a retraction as he had been in 1790. The letter is as follows, viz :

*September 7th, 1792.*

SIR:—I take the liberty of writing by Captain O'Bannon, and in a few words mean to give you the names and rank of the gentlemen who are most likely to influence government and give a tone to the politics of this State. Isaac Shelby, Esq., Governor; Harry Innes, Esq. (present Judge of the Federal Court), first Judge of the High Court of Appeals;

John Brown, Esq., Senator to Congress; James Brown, Esq., Secretary; George Nicholas, Esq., Attorney General for the State; and almost every post of power or profit in the State is filled by their friends and adherents. From this you may judge of my situation, who have formerly offended some of them, and can never make concessions without violating my own conscience. It is true, I want nothing which they have to bestow; yet they can by misrepresentation vex me, by rendering me obnoxious to the people.

Colonel Muter, who can never be forgiven for suffering the publication of Mr. Brown's letter, has pretty severely felt the rod of power. He has been, by the choice of the Assembly of Virginia, for seven years past first Judge of the Supreme Court of the District of Kentucky, with a salary of £300 per annum, and is, without any fault alleged against him, turned down to the Court of Oyer and Terminer, where the salary, it is thought, will be very trifling,—for the salary of the judges is not yet fixed.

I have received a letter from Colonel Richard C. Anderson, requesting my recommendation of him to fill the office of Commissioner of Loans, if such an office should be necessary in this State. To recommend a gentleman to fill any office is a liberty I have never yet taken, nor do I think myself by any means authorized to do so; but as I have had a long acquaintance with Colonel Anderson, both in the Army and since it was discharged, and have the highest opinion of his merit as an officer and a gentleman, I hope you will pardon me for being the means of his wishes having come to your knowledge.

I have the honor to be, with the most cordial wishes for a long continuance of your health and prosperity, Sir, your most obedient humble servant,

T. MARSHALL.

T. Marshall to General Washington.

He never did make the slightest concession to any of them, and, on their part, they never ceased to hate and to villify the man whose actions proved that he understood them, and who had the courage to speak and write the inconvenient truth, as well as the patriotism to do his duty. After having discharged that duty he indulged in no bickering with the men he had, with Muter, and the aid of, Anderson, Allen, Crockett and Edwards, so signally and completely thwarted.

The most charitable reader will agree that this deflection by Colonel Brown would be most remarkable in any other author and if occurring in any other book. He must admit, however, that it is but typical of the characteristics which distinguish the "Political Beginnings" from every other alleged historical narrative than ever



was written. Every reader must supply his own comment. The writer deems the incident of importance only so far as the devices resorted to by John Brown himself, as well as by his grandson, to suppress what Colonel Marshall had written and to make it appear that whatever he had so written he had himself retracted, exhibit the value they set upon his testimony as that of a witness who was known to be as careful as he was observant and shrewd, of a clear and strong mind, and of integrity as unimpeached as it was unimpeachable.

A man of respectable talents and better educated than most of his contemporaries, John Brown was amply competent to defend his own reputation in any matter that was defensible. That he did not think the charges made against him unworthy of notice is apparent from his paying Littell to write in his defense, and from the various subterfuges, evasions, suppressions and flagrant misstatements which every-where appear in the pamphlet for which he was morally responsible. That his family and kindred had reason to regard the imputations upon his honor and patriotism as most serious and damaging, is exhibited by the resurrection of those old controversies more than three quarters of a century after they were waged. Every reader will deem it of strange significance, that, while he was thus assailed and denounced, publicly, from the rostrum and in the press, with specification and proof adduced to support charges broadly and fiercely made, in the very community in which he lived, John Brown, thus competent, and thus smarting under the lash, never publicly uttered one word, nor wrote a line over his own signature, in his own vindication. His grandson was painfully impressed with the terrible force of the conclusion which will naturally be drawn from this silence—most strange and unaccountable on any presumption of his consciousness of his own innocence. Ignoring this pregnant fact, but feeling its overwhelming weight, to neutralize its logical effect, Colonel Brown tries to make it appear, that his grandfather did, before the committee charged with the investigation of Sebastian, repel the charges against him-

self under the sanctity of his oath. He says that: "It was not till 1806 that Brown had opportunity before the legislature (?) of Kentucky, when Sebastian was under impeachment (?) to testify under oath and repel the charge and explain his actions and his motives. From his *MS.* memoranda of his testimony so delivered his version can be briefly stated." \* On another page, still referring to Brown's testimony before that committee he says: "And the explanation of Brown and his asseverations of the correctness of his motive and his action were given under the sanction of his oath." Colonel Brown gives the following as his grandfather's alleged manuscript memoranda of his testimony before the committee :

"The fact is," said Brown, "that from 1785, when the first convention met at Danville, on the subject of a separation from the State of Virginia, till 1792, when Kentucky was admitted into the Union as a separate state, no motion was at any time made, either in convention or to the people, to separate from the Union and form an alliance with Spain; nor was any measure to that effect discussed or advocated by any man. The proposition of Mr. Gardoqui originated with himself, and was suggested by him in conversation on the subject of his negotiation with Mr. Jay, and was communicated by me to Colonel Muter and Colonel McDowell, Judges of the Supreme Court, in reply to letters from them requesting whatever information I might obtain relative to that negotiation. At the date of my letter to Muter I intended to write letters to the same purport to other friends who corresponded with me, but, upon reflection, and more especially after an interesting conversation with a highly distinguished statesman of Virginia relative to Gardoqui's project, I deemed it inexpedient to make any further communication on the subject, the public mind of Kentucky being in a high state of excitement in consequence of the rejection of the application to be admitted into the Union as an independent state."

Waiving all discussion as to whether this "repels" any charge made against him; waiving also the question of its consistency with the terms of his letter to Muter, and of his own account, as given in the Littell pamphlet, of his course in the Danville convention of November, 1788; the fact remains that the official report of his testimony before that committee, to which he himself signed his name with his own hand, shows that he gave no such testimony

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\* "Political Beginnings," page 158. *Ibid.*, page 164.

before that committee, and fully establishes the inaccuracy and utter disingenuousness of his alleged manuscript memoranda of that testimony; even if, indeed, it be true that he left any manuscript purporting to be such memoranda. Were the natural inquiry made, why Colonel Brown published the alleged memoranda instead of the testimony itself, which was in his possession, the easy answer is, that it was *because* the latter did not suit his purpose, the testimony not containing one word of the pretended memoranda thereof, and relating entirely to matters which occurred seven years subsequent to the events treated in the memoranda. One reading both and comparing them with each other will see, that, while the testimony relates exclusively to John Brown's knowledge of the "business upon which, it was said, Mr. Sebastian went to New Orleans in the years 1795-6, or relative to his having received a pension from the Government of Spain," as to the date when Brown first became acquainted with the fact that Sebastian was a Spanish pensioner, etc.,—the memoranda, on the other hand, makes no reference to any of these matters, but refers to John Brown's own conference with Gardoqui in 1788, his letters to Muter and McDowell in the same year, and his motives for *not making* a public revelation of the overture of Gardoqui;—which overture he himself induced Littell to publish that he had actually disclosed in the November convention.\* Leave-

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\*The following is the entire evidence of John Brown before the committee referred to, as given in the official report of that committee, and published by J. M. Street & Co., 1806:

"John Brown deposeth and saith, that he has no personal knowledge of the business upon which it is said Mr. Sebastian went to New Orleans in the years 1795-6, or relative to his having at any time received a pension from the Government of Spain; that Mr. Sebastian never made to him any communication whatever, on those subjects; nor did he ever receive any information respecting them from any quarter, until he read certain publications which appeared in the *Western World* since the 4th of July last; that in, or about, the month of August last, Mr. Innes did make a communication to this deponent relative to the business in which he said Mr. Sebastian had gone to New Orleans; and also stated some information which he said had been given to him by Charles Wilkins relative to said pension; but as the communications

ing the question whether John Brown left memoranda in which he gave a pretended account of his testimony before that committee, which his own signature to his deposition proves he never did give, to be adjusted between the grandfather and the grandson; and turning from this spectacle and all the painful reflections to which it gives rise, the reader will be seriously impressed by the fact, that John Brown so utterly failed to defend himself in any public speech or writing. In his testimony before the legislative committee which investigated the charges against Sebastian, his deposition shows that he made no reference to the charges brought against himself, which charges related to the transactions of 1788. For reasons which were deemed sufficient, he was not made a witness in the suit of *Innes* against *Street*. In the suit of *Innes* v. *Marshall* his loyalty and integrity were impugned by the questions of the defendant, and seriously impeached by the replies of witnesses; the most damaging assaults made upon *Innes* were the proofs of his intimacy with the writer of the letter to *Muter*;—with the man who had the conference with *Garloqui*, and made in the November

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then made to this deponent are, as he believes, substantially contained in the testimony delivered by Mr. *Innes* to this committee, he deems it unnecessary to state them; that he heard Mr. *Sebastian* had been in Philadelphia on his return from New Orleans in 1796; but he did not call on this deponent, then attending Congress in that city; and he has been informed that he did not call on any of the then members of the Kentucky delegation at that place; that some time after Mr. *Genet* arrived at Philadelphia, and during the continuance of the war between France and Spain, he informed this deponent that he had it in contemplation to raise an army to consist of recruits from Kentucky, Tennessee, the Creek and other Indian tribes, for the conquest of Louisiana in behalf of France.

Shortly after he understood from one of the heads of departments that he was apprised of the project of *Genet*; that he was absent from Kentucky from the autumn of 1792, till about August, 1795; and, therefore, has no personal knowledge of the progress of any agent of *Genet* in issuing commissions or enlisting men; but during that time he received letters from Kentucky containing information on that subject, and without delay gave extracts from them to the then Secretary of State, for the information of the President of the United States.

December 1, 1806.

J. BROWN."

convention the equivocal response to the request for information. Every consideration which could appeal to one's pride, to one's self respect, to regard for one's own reputation with future generations, and to the sincerity of his friendship for Innes, demanded that he should go upon the witness stand, and there defend his friend by vindicating himself, if he were innocent, from the charges published by Marshall in the newspapers, recorded by him on the "during marble of history," and which were spread by the man whom he hated, even as he feared him, upon the records of the courts. Yet he was never summoned, he did not volunteer, and not one public word did he utter. This silence, which would have been inexplicable in a man who was conscious of his own innocence, that the charges against him were calumnious and could be so shown to be by making known the truth, is susceptible of but one logical explanation;—that to have been subjected to a cross-examination would have reduced him to an election between two alternatives,—one of which was a confession; and from the other, what he had of conscience made him shrink.

## CHAPTER XVII.

THE ARCHIVES OF SPAIN, FRANCE AND ENGLAND ALL TESTIFY TO THE EXISTENCE OF THE SPANISH CONSPIRACY—EVIDENCE OF GENERAL ST. CLAIR—VIEWS OF WASHINGTON—WILKINSON AND BROWN ALONE NAMED BY COLONEL MARSHALL, WHO DID NOT MENTION INNES IN HIS LETTER OF FEBRUARY 12, 1789—FALLACIES RESORTED TO BY BROWN, INNES AND WALLACE IN THEIR OWN DEFENSE—WILKINSON'S INTERPRETATION OF THE APPOINTMENT OF INNES—OPINIONS OF WASHINGTON AND HAMILTON OF WILKINSON—OUT OF THE ARMY HE WAS DANGEROUS—POLICY DICTATED THAT IT SHOULD BE MADE HIS INTEREST TO BE LOYAL.

The movement to separate Kentucky from the United States and either to subject her people to, or place them under, the protection of Spain, was made known to the French minister to the United States, and was by him communicated to his court. Similar intelligence was conveyed to Lord Dorchester, then the governor of Canada, who promptly forwarded it to the Court of St. James. The details are even now among the Spanish archives in Madrid. It is unnecessary to recapitulate the evidence from various sources which unerringly demonstrates, that the construction placed upon the memorial and utterances of Wilkinson, upon the letters and speech of John Brown, as well as upon the actions of their associates, by Colonel Marshall, which was also placed upon them by Allen, French, Muter, Crockett and others, at the time, was not the result of prejudice, but was eminently just. Whatever may have been the detestation felt by Humphrey Marshall for these men on personal grounds, the interpretation he placed upon their conduct in his History, in after years, was fully sustained by the proof; was but the repetition of official dispatches to three European powers, and of the views expressed in regard to them by well informed and unbiased men at the time those events occurred. Out of the abundance of proof which establishes that the

opinions of important contemporaries confirmed those afterwards expressed by the historian, the testimony obtained from the letters of the gallant General St. Clair is produced. Under date of December 5, 1788, St. Clair, who was then governor of the North-Western Territory, wrote to Major Isaac Dunn,—Wilkinson's partner and confederate :

"DEAR DUNN:—I am much grieved to hear that there are strong dispositions on the part of the people of Kentucky to break off their connection with the United States, and that our friend Wilkinson is at the head of this affair. Such a consummation would involve the United States in the greatest difficulties, and would completely ruin this country. Should there be any foundation for these reports, for God's sake, make use of your influence to detach Wilkinson from that party."\*

This letter was sent by Dunn to Wilkinson, and a copy thereof was forwarded by Wilkinson to Miro, as "the proof that the part which I play in our great enterprise, and the dangers to which I am exposed for the service of his Catholic Majesty, are known." On the 13th of December, 1788, St. Clair wrote to John Jay, that, "it is certain that, in the last convention, a proposal was made that the district of Kentucky should set up for itself, not only independent of Virginia, but of the United States also, and was rejected by a small majority only." This was the construction given at the time to the intended effect of the resolution of John Brown. Had the resolution and address offered by Edwards been defeated, and had that of John Brown and the policy to which its author was committed by his assurances to Gardoqui prevailed, then the result would have followed from which, according to St. Clair, so narrow an escape was made.

The most forcible argument used in the Littell pamphlet, and which is dutifully repeated by Colonel Brown, is founded on the alleged confidence reposed in these men by the illustrious Washington;—from which, they contend, it results that the Sage of Mt. Vernon discovered no criminality in the memorials, letters, speeches, acts and movements which were communicated to him by Colonel Marshall;—and, conceding he credited Colonel Marshall's

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\* Gayarre, page 240.



statement of facts, that he altogether rejected Colonel Marshall's conclusions, or that any unfavorable impression he may for a time have had was speedily removed by Colonel Marshall's own retraction. That General Washington was "greatly alarmed at the nature of the transactions mentioned" in Colonel Marshall's letter of February 12, 1789, is clear from his own response. But, say the champions of the conspirators, in the face of that letter, General Washington in a few months thereafter appointed Hary Innes, Judge of the District Court for Kentucky. It happened, however, that Colonel Marshall had made no charge against Innes, nor so much as mentioned his name in the letter referred to;—a fact of which Judge Innes, himself, Brown, and Wallace were fully aware when they caused this disingenuous defense to be made; for the letter itself had been published before the Littell pamphlet was written. The moderation and circumspection with which that letter dealt with Wilkinson and Brown (whom alone it designated), concisely stating the facts of their dealings with the Spaniards as they appeared from their own writings and declarations, and very briefly giving his own just conclusions therefrom, can not fail to attract the attention of the reader. Whatever he may have thought of Innes as their friend and confederate, Colonel Marshall's opinions concerning him were not stated in that nor in any other letter he ever wrote to Washington.\* As the superintendent of mines during the revolution, in which capacity his services had been valuable, Innes had been known, by reputation at least, to Washington. His elder brother, Dr. Robert Innes, a surgeon in the revolution and a man of high character, had married the daughter of Washington's intimate friend and near kinsman, the elder Warner Lewis, of Warner Hall. His younger brother, James Innes, whose talents were as brilliant as

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\* The letter of September 7, 1792, mentions Innes among the appointees of Shelby, "some of whom" he had "formerly offended." It does not specify Innes as one of those he had offended, nor make any charge against him. That letter was written three years after Innes was appointed by Washington.

his body was immense, had been the brave colonel of a Virginia regiment, and had but recently rendered invaluable service in the Virginia convention by advocating the ratification of the constitution, which gave scope for and an incentive to an eloquence, which in its magnificance was scarcely surpassed by that of the gifted Henry. The family was in the highest degree reputable. Hary Innes himself was a man of good private morals and of respectable legal attainments, and had for years been identified with and prominent in the affairs of the district. Without information from Colonel Marshall, or, so far as known, from any one else, of his implication with Wilkinson, there were but few men in the district, to whom Washington would more naturally have looked as a suitable person for the position than the one he appointed; and the others did not desire the place.\*

Much stress has also been placed upon the circumstance, that, in 1791, Washington appointed Innes and Brown, in conjunction with Isaac Shelby, General Charles Scott and Benjamin Logan, commissioners to organize the militia of the district for an offensive movement against the Indians

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\* The construction placed by Wilkinson upon Washington's motive in making this appointment appears in his letter to Miro, of January 26, 1790. As it is amusing as well as instructive, the passage is here quoted from Gayarre, page 278, viz:

"On my arrival here, I discovered a great change in those who had been so far our warmest friends. Many, who loudly repudiated all connection with the Union, now remain silent. I attribute this, either to the hope of promotion or to the fear of punishment. According to my prognostic, Washington has begun to operate on the chief heads of this district. Innes has been appointed a federal judge with an annual salary of one thousand dollars; George Nicholas, district attorney; Samuel McDowell, son of the president of the convention, and Marshall, have been appointed to offices somewhat resembling that of Alguazil Mayor; and Payton Short, the brother of our charge d'affaires at Versailles, is made a custom-house officer. But he has resigned, and probably will visit you in the spring. I do not place much reliance on George Nicholas and Samuel McDowell. *But I know that Harry Innes is friendly to Spain and hostile to Congress, and I am authorized to say that he would much prefer receiving a pension from New Orleans than from New York.* Should the king approve our design on this point, it will have to be broached with much delicacy, caution and judgment," etc.

of the North-west. But, at this time, he had been informed by the letter of Marshall of the "good disposition of the *great majority* of the *people* of Kentucky" towards the general government, and that little was then to be apprehended from the "machinations of the Spanish party." Brown was the Congressman from the district; he had been active in urging the measure; and he was capable of being useful in the organization of the expedition. The eminently wise and practical Washington was anxiously laboring to conciliate all the factions and make it their interest to support the new government; and, safely sandwiched between Scott, Shelby and old Ben. Logan, there was not a particle of danger that Brown or any one else could turn over to the Spaniards the force raised for service against the red men, even had he desired to do so never so earnestly. It will be seen there were abundant reasons for giving Brown the place he sought without attributing it to the slightest confidence reposed in him by Washington.

Then Wilkinson was appointed to a Lieutenant Colonelcy by Washington in the fall of 1791, and by successive promotions reached the head of the army; and it is stoutly asserted that he could never have received this appointment had a vestige of the suspicion engendered by Colonel Marshall's letter remained upon the mind of the President. That Wilkinson was as guilty and as base as Colonel Marshall believed him to have been, as unscrupulous a traitor and as false and corrupt a scoundrel as Humphrey Marshall, or Clark, or Power, or Adair, or Randolph ever charged him with having been, no one who reads his letters to Miro and Gardoqui can for one moment doubt. But that does not affect the question of what Washington thought of him at the time. However, from the correspondence between Alexander Hamilton and Washington a few years later, on the subject of Wilkinson's promotion, may be gathered their appreciative knowledge of his character, their suspicions of his treachery in this very Spanish business, and the principles upon which Washington sometimes felt compelled to act in

dealing with men like Brown and Wilkinson. Unwelcome as the revelation may be to those who fail to realize the embarrassments under which the clear sighted, pure and patriotic sometimes thought it prudent to *seem* to trust the deceitful and treacherous, it nevertheless effectually disposes of all this flimsy superstructure built upon a quicksand :

The insolence and continued outrages of the French Revolutionary government, compelled President John Adams, in 1799, to prepare for war. Congress authorized the enlistment of ten thousand men as a provisional army. General Washington was appointed Commander-in-Chief and Alexander Hamilton, Inspector General, to be second in command to Washington. These two able men were busily occupied in the details of recruiting and organizing the new army. While those labors were in progress, Hamilton, under date of June 15, 1799, wrote to Washington a letter from which the following is an extract, viz :

“ I have just received a letter from General Wilkinson, dated the 13th of April, in which he assures me that he will set out in the ensuing month for the seat of government. The interview with him will be useful. It strikes me forcibly, that it will be both right and expedient to advance this gentleman to the grade of a Major General. He has been long steadily in service, and long a Brigadier. This, in so considerable an extension of the military establishment, gives him a pretension to promotion. *I am aware that some doubts have been entertained of him, and that his character, on certain sides, gives room for doubts.* Yet he is at present in the service ; is a man of more than ordinary talent, courage and enterprise ; has discovered upon various occasions a good zeal ; *has embraced military pursuits as a profession, and will naturally find his interest as an ambitious man, in deserving the favor of the government, while he will be apt to become disgusted if neglected, and through disgust may be rendered really what he is now only suspected to be.* Under such circumstances it seems to me good policy to avoid all just ground of discontent, and to make it the interest of the individual to practice his duty. If you should be also of this opinion, I submit to your consideration whether it would not be advisable to express it in a private letter to the Secretary of War.”

From Washington's answer to this letter the following extract is taken :

“ *I think, with you, that policy dictates the expediency of promoting Brigadier Wilkinson to the rank of Major General, and will suggest the measure to the Secretary of War in a private communication. It would feed his ambition,*

*soothe his vanity, and, by arresting discontent, produce the good effect you contemplate."* \*

It is mortifying to reflect that the same views of *policy* have, in this and in all other countries, in all ages, frequently influenced the greatest and best men who have been charged with the conduct of public affairs. But, whatever may be thought of the wisdom of thus promoting a man known to be untrustworthy and treacherous, in order to buy his fidelity, there can be no question that, in point of fact, Washington had no confidence in the integrity of Wilkinson, and that his appointment by Washington to a command in the army did not prove either that the latter discredited the statements of facts or the conclusions of Colonel Marshall, or that he did not esteem the conduct of Wilkinson and Brown as highly culpable. Wilkinson himself was aware that he was distrusted by Washington, and was closely watched by the able, gallant and loyal Wayne.

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\* Sparks, Vol. XI, page 438-40.

## CHAPTER XVIII.

BRITISH INTRIGUES IN KENTUCKY—MADISON'S LETTER TO JEFFERSON SHOWS BRITISH PARTISANS TO HAVE BEEN AT WORK PRIOR TO ITS DATE IN THE SPRING OF 1787—THEIR APPROACH TO WILKINSON PROVED BY HIS MEMORIAL AND HIS LETTER TO GARDOQUI—THE SPANISH MINISTER HAS INFORMATION OF BRITISH INTRIGUES PRIOR TO JULY, 1788—THE EDITOR OF THE WESTERN WORLD HAS INFORMATION OF WILKINSON'S INTRIGUE WITH THE BRITISH AND MENTIONS WILKINSON'S REPORT—DORCHESTER'S DISPATCH—IT REFERS UNMISTAKABLY TO THE SPANISH CONSPIRATORS AS READY TO UNITE WITH BRITAIN—THE "DESULTORY REFLEXIONS OF A GENTLEMAN OF KENTUCKY" REALLY THE "REPORT" OF WILKINSON MENTIONED BY THE WESTERN WORLD—SIMILARITY OF ITS LANGUAGE TO THAT OF WILKINSON'S LETTERS TO MIRO—THE VISIT OF CONNOLLY TO COLONEL MARSHALL—HE MEETS WITH A COOL RECEPTION—MORE OF COLONEL BROWN'S SUPPRESSIONS—MORE OF HIS INVENTIONS—TRANSFERS THE "REFLEXIONS" FROM A KNOWN TRAITOR TO A TRIED PATRIOT—VINDICATES THE LAW OF HEREDITY—MISREPRESENTS A. K. MARSHALL'S COMMUNICATION—THAT COMMUNICATION REFUTES HIS STATEMENT—THE PYRAMID HE ERECTED AND THE FOUNDATION HE LAID—CREDIT GIVEN HIM FOR ONE CORRECT STATEMENT.

All circumstances combine to prove, that, from a time commencing soon after the close of the Revolution, there were in Kentucky, in Tennessee, and in other sections of the West, emissaries of Great Britain, who used exertions to disaffect the people towards the Congress and the East, to the end that there might be brought about a separation of the West from the United States. The letter of Thomas Green to the Governor of Georgia, and the circular distributed throughout the West, in December, 1786, and which stated that, "Great Britain stands ready with open arms to receive and support us. They have already *offered* to open their resources for our supplies:" are links in the chain of evidence by which the fact is established. In corroboration of the statement in this circular, Mr. Madison wrote to Jefferson, on the 19th of March, 1787: "It is hinted to me that British partisans

are already feeling the pulse of some of the western settlements;" and the "measures for uniting their consultations" in the West, of which Mr. Madison had information, and some of the developments of which may be read in the circular letter from Western Pennsylvania, and in the call of March 19, 1787, seem much like a movement in the direction of what Mr. Madison anticipated as the ultimate result of those measures. Wilkinson also, in his memorial to the Intendant of Louisiana, asserted that, if Spain was so blind to her own interest as to reject the proposition made to her by a people whom he described as on the point of separating from the Union forever, "Great Britain stands ready, with her arms expanded, willing to *receive* and co-operate with them in their desire to open the navigation of the Mississippi;" and, to enforce what he had written, repeated a conversation he had had with a British member of Parliament on the subject. To Gardoqui, in a letter dated January 1, 1789, he wrote that, in case his intended propositions to Spain had been rejected by Navarro and Miro, it had been his purpose "*to open negotiations with Great Britain, which had been* ALREADY ACTIVE IN THE MATTER."\* This shows that, prior to his visit to New Orleans, in June, 1787, he had already been in consultation and correspondence with British authorities in reference to the separation of Kentucky from the United States and an alliance with Great Britain, and was one of the persons who had been approached by British partisans, as had been hinted to Madison. Gardoqui's dispatch mentions those British intrigues.

In one of the articles published in the *Western World*, and which was reproduced in the *Lexington Gazette*, of July 12, 1806, it was stated that Wilkinson had been approached by these "British partisans" and had made a *written report* encouraging their hopes; that the Courts of both Madrid and Paris were looking to a separation of Kentucky from the Union, and were eager to use her an-

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\*Gayarre, page 249.



anticipated action for their own advancement. Said the article: "While Lord Dorchester, the Governor of Canada, was impressed with a similar view by the ministry of Great Britain; a copy of Wilkinson's report was transmitted to Lord Dorchester, which is probably yet in that nobleman's possession; but another manuscript is preserved in the private library of the Earl of Bute, at his family seat of Mount Stuart in Scotland." From the connection in which this statement was made in the *Western World*, the present writer infers that the editor intended to be understood, that this report was made by Wilkinson prior to his trip to New Orleans and engagement with Miro. However that may be, the statement was positively made, and beyond question was not manufactured, but was based upon information. That Wilkinson had conferred with British emissaries before his trip to New Orleans, and was then as ready to negotiate with them as he did with Miro during that trip, is established by his own writings.

The attention of the reader is now requested to the following dispatch from Dorchester to Lord Sydney, viz.:

QUEBEC, 11th April, 1789.

*My Lord*:—I am informed the Spanish Government at New Orleans has, for some time past, observed a very friendly conduct towards the inhabitants of Kentucky.

Special permits have been put into the hands of some of the leading characters of those settlements for sending down the Mississippi determinate quantities of tobacco, which are purchased at New Orleans on account of the Government, and ten thousand dollars have been issued from the public treasury there for the purpose of purchasing merchandise in Kentucky, which sum has been consigned to gentlemen of that country, and is actually arrived at the Falls of the Ohio.

The Spanish territories upon the Mississippi, between the thirty-first and thirty-third degrees of north latitude, are erected into a Lieutenancy, dependant on New Orleans, a governor has been appointed, and all Americans are invited to settle there under flattering offers.

A Monsieur d'Arges, a Knight of the Order of St. Louis, who has been a resident of Kentucky for near a year, and in the employ of the Spanish Government, is said to have advised this measure at the Court of Madrid, where he has had several audiences since he left Kentucky.

On the west side of the Mississippi, opposite the mouth of the Ohio, another Spanish settlement is intended with similar views, under the agency of a Mr. Morgan, formerly a merchant at Philadelphia, who is now upon the Ohio.

Notwithstanding the favorable answer given by Congress to the demand of Kentucky to be admitted a sovereign State in the Union, the people of that country have lately discovered a strong inclination to an entire separation, and some of their leading men have entered into correspondence with the Spanish Government at New Orleans.

Their apprehension that Congress will consent to give up the navigation of the Mississippi for twenty-five years is one of the reasons which induces them to listen to the overtures of Spain.

In a late convention, held at Danville, it has been proposed by those who are gained over to the Spanish views to throw themselves under the protection of that power.

But the general result of more private councils among them is said to be to declare independence of the Federal Union, take possession of New Orleans and look to Great Britain for such assistance as might enable them to accomplish these designs.

A committee of private correspondence has been appointed by them to influence all the inhabitants west of the mountains in the same measure.

I inclose some of their political reflexions on the state of affairs in the western country.

A new American settlement is now forming at the mouth of the Great Miami, on the north side of the Ohio, conducted by a Mr. Symmes, a late member of Congress, and covered by a garrison of one hundred and fifty Continental troops.

I am, with much respect and esteem, your Lordship's most obedient and most humble servant,

DORCHESTER.

The Right Hon'ble Lord Sydney.\*

The reader will observe from the entire tenor of this dispatch, that Dorchester's expectations and hopes rested entirely upon those who were dissatisfied with the Union, who had but recently made an effort to withdraw from it, and who were balancing, as he supposed, between an alliance with Spain to obtain from her the navigation of the Mississippi; and one with Great Britain, and, with the aid of the latter power, to drive out the Spanish and take possession of New Orleans. In the November convention, he says, "it has been proposed by *those* who are gained over to the Spanish views to throw themselves under the protection of *that* power. But the general result of *more private councils* among *them*, is said to be to declare independence of the Federal Union, take possession of New Orleans, and look to Britain," etc. The an-

\*The above dispatch is copied from the Canadian archives, published in 1890.

tedecedent to which the pronoun "*them*" in the last sentence refers is manifestly the pronoun "*those*" in the immediately preceding sentence. "*Those who are gained over to the views of Spain*" had taken position accordingly in the convention; but afterwards, the "*result of more private councils among them*" (or "*those who are gained over to the views of Spain*") is represented to be to look to Great Britain instead of to Spain. The language of Dorchester is fairly susceptible of no other construction than the meaning plainly conveyed by its context. It could have had no reference to the men whose attachment to the Union in resisting Spanish designs in the November convention had been so recently and so bravely manifested. It referred to Wilkinson and his coterie. The following are "*their* political reflexions on the state of affairs in the western country," referred to by Dorchester, and which he inclosed to Lord Sydney, viz :

DESULTORY REFLEXIONS BY A GENTLEMAN OF KENTUCKY.

1. The River Mississippi being the channel by which the Western settlements of America must export their products, we may form a just estimate of the importance of this channel by casting our eyes over a map comprehending that vast and luxuriant Country watered by its branches.

2. As the balance inclines the beam, the Atlantic States of America must sink as the Western settlements rise. Nature has interposed obstacles and established barriers between these regions which forbid their connexion on principles of reciprocal interests, and the flimsy texture of republican government is insufficient to hold in the same political bonds a people detached and scattered over such an expanse of territory, whose views and interests are discordant.

3. Thus local causes, irresistible in their nature, must produce a secession of the Western settlements from the Atlantic States, and the period is not very distant. But these people must for ages continue agricultural; of consequence foreign protection will be expedient to their happiness; and this protection must necessarily comprehend the right of navigating the Mississippi, with a marine to protect its commerce. That power which commands the navigation of the Mississippi as completely commands the whole country traversed by its waters as the key does the lock, the citadel the out-works.

4. The Politics of the Western Country are verging fast to a crisis, and must speedily eventuate in an appeal to the patronage of Spain or Britain. No interruption can be apprehended from Congress; the seditious temper and jarring interests of the Atlantic States forbid general

arrangements for the public good, and must involve a degree of imbecility, distraction, and capricious policy which a high-toned monarchy can alone remedy ; but the revolutions and changes necessary to reconcile the people to such a government must involve much delay. Great Britain ought to prepare for the occasion, and she should employ the interval in forming confidential connexions with men of enterprize, capacity, and popular influence resident on the Western Waters.

[Indorsed: In Lord Dorchester's to Lord Sydney, No. 107, of the 11th April, 1789.]\*

The pronouns "*those*," "*them*" and "*their*," employed by Dorchester in four consecutive sentences of the dispatch which refer to the above paper, all used in the same immediate connection, unmistakably relate to the same party. There was no other party than the one which had "*lately discovered a strong inclination to an entire separation, and some of whose leading men have entered into correspondence with the Spanish government at New Orleans*"—the party led by Wilkinson, Brown, Sebastian and Innes, —mentioned in the dispatch, nor any other to whom Dorchester's words could possibly have had reference. To the writer the paper appears, on its face, to have been written *before* the engagement of Wilkinson with Miro and prior to the overture of Gardoqui which John Brown promised to "aid ;"—because it speaks of "an appeal to the patronage of Spain or Britain" as something in the future—that "must speedily eventuate." This impression is strengthened by the fact, that, although the dispatch of Dorchester in which it was inclosed is dated in April, 1789, yet both this dispatch and the "reflexions" are published in the Archives in pages which precede dispatches of a later date which inclosed papers that were unquestionably written in 1787. But, whether or not the writer is correct in this—whether the "reflexions" were written in 1787, or after the November convention of 1788—the letter of Dorchester and the "reflexions" themselves alike show, that they emanated from some one of the men who had disclosed their purpose in the November convention to separate Kentucky from the Union. It is perfectly

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\* This paper is copied as it is published in "The Political Beginnings."

clear that it is, in fact, the very "*copy of Wilkinson's report*" which the editor of the *Western World* had information had been "*transmitted to Dorchester.*"

There is not an idea advanced, and scarcely an expression used, in these "Reflexions of a Gentleman of Kentucky" of which the reader can not find the counterpart, or one closely resembling it, in Wilkinson's letters to Miro to be found in *Gayarre*, and republished from that author in *Smith's History of Kentucky*. The arguments used in the letters of Wilkinson to the Spaniard are precisely identical with those employed by the "Gentleman of Kentucky" to operate upon the Briton. But two instances of this identity of argument, of thought, and even of language and illustration will suffice: In the "Reflexions" occurs this sentence: "As the *balance* inclines the beam, the Atlantic States of America must sink as the western settlements rise." In Wilkinson's letter to Miro, of February 12, 1789, the same idea is presented thus: "It is not to be presumed that the eastern states, which at present have the *balance of power* in their favor in the American government, will consent to strip themselves of this advantage, and *increase the weight* of the southern states by acknowledging the independence of this district and admitting it to be a member of the Federal Union." In the "Reflexions" the gentleman of Kentucky says: "*That power which commands the navigation of the Mississippi as completely commands the whole country traversed by its waters as the key does the lock, the citadel the outworks.*" And Wilkinson, in his letter to Miro, thus paraphrases the idea, which undoubtedly was his own: "For, *whatever power shall command that navigation will control all the country which is watered by that river and by those streams that fall into it. This control will be as effective and complete as that of the key upon the lock, or that of the citadel over the exterior works which it commands.*" The intelligent reader will come to the conclusion that, as Dorchester's dispatch clearly points to some member of the party which, as he stated, had proposed in the November convention to throw themselves under the protection of Spain,

and had afterwards, as the "result of *more private councils*," concluded to look to Great Britain instead, as having favored him with these "Reflexions,"—so the identity of the sentiments, words and illustrations in those "Reflexions" with those of Wilkinson's letter to Miro, prove that arch traitor to have been the author of both.

The reader will not need to be reminded, that in the name of John Connolly the patent to a large body of land covering a great portion of the site of the present city of Louisville, had been issued in 1773, and that it was confiscated as the property of a Tory. Professing to have discovered some legal flaw in the proceedings which had stripped him of his possessions, and to have come for the purpose of having those proceedings set aside and his lands restored to him, Dr. Connolly visited Kentucky in the fall of 1788. While the motives assigned may not have been entirely deceitful, it seems certain that the most important, if not the only real, business he had in Kentucky was to watch the course of the Spanish intrigue, which was known to have been in progress, and, if practicable, to create a diversion in favor of King George. He came from Detroit to the Big Miami, followed that stream to its mouth, and thence proceeded to Louisville, where his friend and former partner in the ownership of the land at the Falls, Colonel John Campbell, lived. From the letter of General Wilkinson to Miro, of February 12, 1789, it is ascertained that Connolly "arrived in Louisville in the beginning of October," \* 1788, and with this statement information derived from other sources fully corresponds. There, if Wilkinson's account be true, he remained during the canvass preceding the election of delegates to the November convention of that year, and during the sitting of that convention, securing full information of all that transpired, and having ample opportunity of consulting and communicating with many of the prominent and influential men of the district. Wilkinson received "immediate information" from Dunn of Connolly's presence

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\* Gayerre, page 235.

at Louisville, "and of the intention which Connolly had to visit him" (me), for the purpose of detaching him from the interest of Spain, and of bribing him to enter into the designs of the British; and Wilkinson invited Connolly to visit him in Lexington. "Consequently," says Wilkinson, "he came to my house *on the 8th of November*," 1788. As the letter is printed in Gayarre, the *8th of November* is stated by Wilkinson as the date of Connolly's arrival at his house; but this is clearly a *misprint* or else a slip of Wilkinson's pen for the *18th* of November; because the official report of the November convention shows that on the 8th of November Wilkinson was in Danville, and was not at his home in Lexington. He did not leave Danville until after the adjournment of the convention late on the 10th of November. That the 18th was intended is the more certain from Wilkinson's further statement in the same letter, that, after having "pumped" Connolly, he succeeded in terrifying him by employing a hunter to make a pretended attempt upon his life, which alarmed Connolly "so much, that he begged me to give him an escort to conduct him out of our territory, which I readily consented to, and on the 20th of November, he recrossed the Ohio on his way back to Detroit." The context of Wilkinson's letter represents that Connolly's departure very closely followed his arrival, probably on the very next morning, which, if it was the 19th, would have given time for him to have reached Maysville, the place where he crossed the Ohio on his return to Detroit, by the 20th of the month.\*

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\* It should be stated in this connection that a copy of a *pass* said to have been given by Connolly to a messenger whom he dispatched to Canada, which was alleged to have been dated at Lexington, *December 2*, 1788, and was forwarded by Isaac Dunn to General St. Clair, conflicts with the statement of Wilkinson as to the *time* when Connolly left Lexington. St. Clair's letters later still in December show that he supposed Connolly was yet in Lexington when those letters were written. This would confirm the statement made in the *Western World* in 1806, that Connolly remained in Lexington about *three weeks*. It is altogether probable that Wilkinson lied to Miro as to the expedition with which he got rid of Connolly, and if he lied about that, it could only have been



It is known that Connolly paid a call at the residence of Colonel Thomas Marshall before visiting Wilkinson, and that he went from the house of the former to that of the latter.

After describing the contents of Brown's letter to Muter and of Wilkinson's Memorial, and relating the conduct of both in the November convention, in his letter to Washington, Colonel Marshall wrote that "*about this time*" arrived from Canada the famous Dr. Connolly; "his ostensible business was to inquire after and repossess himself of, some lands he formerly held at the Falls of the Ohio; but I believe his real business was to sound the disposition of the leading men of this district respecting this Spanish business. *He knew that both Colonel Muter and myself had given it all the opposition in convention we were able to do, and before he left the district, paid us a visit, though neither of us had the honor of the least acquaintance with him.*" It is made certain by this statement of Colonel Marshall that the visit of Connolly to Muter and himself was *after the convention*, in which Connolly "*knew*" that these two men had given the "Spanish business" "all the opposition they were able to do;" and that it was made *after* Connolly had been in Kentucky for some time and was about to leave the district. The letter of Wilkinson to Miro, and that of Colonel Marshall to Washington, were written on the same day, give the same account of the conduct of Wilkinson, Brown and their party, and agree as to the *time* when Connolly's visit was made to them. Connolly was accompanied to Colonel Marshall's by his former partner, Colonel John Campbell, who introduced him, and stated the object of his visit, and who, if not actually favorable to Connolly's designs, had certainly been communicated with and was cognizant thereof. As stated to Colonel Marshall by Connolly, the schemes were that, if the Kentuckians were disposed to assert their rights to the naviga-

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to disguise the fact that while committed to Spain he was intriguing with Britain. That he was the "Kentucky Gentleman" who wrote the "Reflexions" is unquestionable.

tion of the Mississippi, Great Britain would furnish them with arms, ammunition, clothing and money and aid them with four thousand troops from Canada, besides the two regiments then in Detroit;—with which assistance it was calculated that the Kentuckians could seize upon New Orleans, fortify the Balize, and maintain themselves against Spain. It appears that no condition was annexed by Connolly, that this aid would be made contingent upon a separation from the Union by Kentucky; but it was plain to Colonel Marshall that this was implied. “It appears plain to me,” he wrote to Washington, “that the offers of Lord Dorchester, as well as those of Spain, are founded on the supposition that it is a fact that we are about to separate from the Union; else, why are those offers not made to Congress?”

The professions of Connolly, a desire to serve the district, were so earnest, that, as he wrote to Washington, Colonel Marshall might have confided to him his apprehensions from the machinations of Spain; but from this he was withheld by his knowledge of the Tory’s character as a perfidious intriguer. He responded to Connolly’s protestations of the friendliness of Lord Dorchester to the Kentuckians by sarcastically reminding him of the conduct of Great Britain during the revolution; indicating the opinion that, at that very time, the Indians were being stimulated in their attacks upon Kentuckians by the British; and that so long as the savages who perpetrated “such horrid cruelties upon our defenseless frontiers” “were received as friends and allies by the British at Detroit, it would be impossible” for Kentuckians to “be convinced of the sincerity of Lord Dorchester’s offers, let his professions be ever so strong.” He concluded by telling Connolly that those professions of friendship would come with better grace after Lord Dorchester had “shown his disapprobation of the ravages of the Indians.” Connolly disclaimed all responsibility on the part of the British for those outrages; but promised that on his return he would repeat to Dorchester arguments he had already made as to the necessity of interfering to prevent them, and in this

he hoped to succeed. On taking his leave after this discouraging conversation, he politely requested that Muter and Marshall would correspond with him, and this they both consented to do if he would commence the correspondence and provide a means of carrying it on. There was not one word which fell from the lips of Muter or Marshall to encourage a hope on the part of Connolly that either could ever be made an accessory to any scheme for separating Kentucky from the Union, or to one for assailing the provinces of Spain while the United States were at peace with that nation. All his professions of friendship and proffers of assistance were treated by them as insincere and deceitful. The reception he met with was so repellant, that neither ever saw or heard from him afterwards. The correspondence was never commenced.

Colonel John Mason Brown had already placed Muter and Marshall in the July convention, of which neither was a member, in order to have them vote for Caleb Wallace's and the recommendatory resolutions, which votes they never gave, and to which resolutions their entire course proved that both were hostile. To make it appear that they gave those alleged votes, which they never cast, while both were fully aware of the overture of Gardoqui and of what Brown expected to accomplish, and Caleb Wallace and Wilkinson tried to effect, by an illegal separation from Virginia and an assumption of independence and sovereignty, Colonel Brown made Muter receive Brown's letter and communicate its contents to Marshall and Edwards, before or during the July convention; while Muter, in a published letter, had stated that it was not received until the following fall. Then, to give color to his insinuation that they were influenced by Connolly to change their position, and to oppose the efforts of John Brown, (which he pretended to be for the immediate admission of Kentucky into the Union), in order to favor the designs of the British agent, he represented the visit of Connolly to have been made to Colonel Marshall in October, 1788, *before* Muter's address of the 15th of that month had been issued. But Colonel Brown, when he made this

statement, had read, and could scarcely have forgotten, the letter of Wilkinson to Miro, as well as that of Marshall to Washington, both written on the same day, while the time of the visit and the conversations were fresh in the minds of both. He knew from those letters that the visits of Connolly to Colonel Marshall and to Wilkinson were made in *November*, 1788, *after* the convention of that month; and that prior to those visits he had passed some time in Louisville. The historian, Marshall, (page 346), Butler, (page 183), and every other person who ever wrote upon the subject, informed him that the visit was made in *November*.\*

Yet, while stating that "Colonel John Connolly made his way from Detroit to Kentucky, where he arrived in the *beginning* of October,"† Colonel Brown purposely omitted to mention his visit to and sojourn in Louisville. He then suppressed what Wilkinson and Marshall both wrote of the *time* at which Connolly's visits were made to them, which shows that it was in November, and after the convention; and says, that "Wilkinson imagined that the purpose of the visit (to Kentucky) was to win over himself, and *met* Connolly with a show of friendliness that drew from him an avowal of the British plan;"—thus striving to produce the impression, that the *meeting* between Connolly and Wilkinson was upon the "arrival" of the former in Kentucky, "in the *beginning of October*," though all the evidence informed him that it did not take place until weeks later. Suppressing that part of Colonel Marshall's letter which incontestably establishes that the visit of Connolly to him was made *after* the adjournment of the Danville convention in November, Colonel Brown asserts, that "it was in February, 1789, that Colonel Thomas Marshall, in the same letter which intimated his suspicion that Brown favored separation from the Union

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\*Butler not only refers to Connolly's sojourn in Louisville, prior to going to Fayette, but alludes to the fact that he was threatened by mob law while in Louisville, quoting Captain Hughes as authority. See note at bottom of page 184.

†Political Beginnings, page 182.

and alliance with Spain, *admitted* to Washington his own interview (*in October, 1788*) with Connolly and the discussion between them, Muter participating, of an establishment of commercial and military alliance with England.\* Characteristically Colonel Brown then prints Colonel Marshall's account of the offers made by Connolly; and, of course, *omits* Colonel Marshall's contemptuous rejection of those deceitful protestations of friendship on the part of Britain.

In a note at the bottom of page 184 of "The Political Beginnings" its distinguished author says: "The *former acquaintance* of Connolly and Thomas Marshall, and the circumstances of the visit of the former to Marshall's home in (what is now) Woodford County, *are detailed* by A. K. Marshall (son of Thomas) in the *Western World* newspaper for 25th of October, 1806, in one of the innumerable articles filled with charge and countercharge that were then so fashionable in political controversy. *From this statement it is clear* that Connolly made to Thomas Marshall, *in October, 1788*, direct overtures for a severance from the Union and a state organization under British protection." Colonel Brown had, with the purpose for which his book was written, the strongest possible motive for not *quoting* the communication from A. K. Marshall to which his note referred. That motive is explained by the fact, that neither the communication in question, nor any other from A. K. Marshall, nor any from any other member of that family, contains a solitary word from which the wildest imagination could find the slightest foundation for Colonel Brown's statement, either that a former acquaintance had existed between Marshall and Connolly, or that the visit of the latter was made in October, 1788.† On

\*Political Beginnings, page 185.

† The communication referred to was originally published in the *Lexington Gazette*, and was republished from that paper in the *Western World*, October 25, 1806. There is but one file of the latter paper in existence, which is owned by George D. Todd, of Louisville, which was examined by Colonel Brown, and from that very copy of the paper of that issue which Colonel Brown read, the following copy of that portion of the said communication which refers to the visit of Connolly to Colonel

the contrary, it distinctly appears from that communication that the visit of Connolly was not made until *after*

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Marshall, was copied by the writer, and is now laid before the reader, viz:

"But that I see it, I should scarcely believe this fact would be urged as a stigma on my father. It is true that Colonel Connolly did call at Buck Pond; it is also true he made overtures, tending to the separation of Kentucky from the United States, and used many arguments to induce my father to think the measure, and the possession of the Mississippi through British influence, would redound to the advantage of the District; it is equally true that these overtures were *repelled* and that my father immediately communicated with General Washington on the subject; and it is also true that the copy of this communication, and General Washington's answer, are not so far from Frankfort as the city of Richmond, and if any of the papers on this subject are in the hands of the Chief Justice, he acquired them with the other papers of General Washington, and for a purpose too well known to need remark. These papers were never kept secret, they were shown to many, but as the interest in them had been lost, they were deposited with other old letters, and perhaps would never again have been noticed, but for the publications which have called them into view. They shall now be given to the world, and except those letters which will be extorted from me by Franklin, the editors of the *Western World* never did derive any information from me, (for I possessed none) or from my father's bureau, or as I believe from any member of my family. Yet the above declaration is not to be understood as extending to occasional remarks published in that paper, for I believe several pieces have flowed from the pen of some of my family, who are willing to avow them. [This qualification had reference to communications over the signature of "*Observer*," which were known to have been written by Humphrey Marshall, but which were not written until the latter had himself been vituperated by the friends of Brown and Sebastian and the connections of Innes. There followed the above, allusions to Colonel Marshall's revolutionary services, and to his satisfaction at the adoption of the Federal Constitution. The communication then continued:]

"In the midst of sensations like these, the best and most virtuous of the human soul, the project of dismemberment rose like a cloud, to blot the felicities of his declining days. He *opposed the project*, and, aided by a majority of the citizens of Kentucky, *he opposed it with success*. While the irritations of that contest were still fresh in his mind, and the lacerations of opposition were scarcely healed, Connolly called, and opened to his view new scenes of turbulence and disquiet.

"How far the arts of Colonel Connolly might influence the discontented and inflammatory spirits then in Kentucky it was not for my father to decide; but devoted to the independence of America in all its parts, and abhorring the idea of again becoming subject to a domination in opposition to which he wasted the mellow autumn of his years, he

Colonel Marshall had *successfully opposed the project of dismemberment*, which was disclosed and was so *successfully opposed* in the *November convention*; and that the visit was made while the *irritation of that contest* was *still fresh* in Colonel Marshall's mind. As A. K. Marshall, in this very communication, promised to give to the public the letter of his father, and did accompany the communication by a copy of that letter, which made the same statement, there was nothing therein from which the inference stated by Colonel Brown could possibly have been drawn.

And so far from "detailing the former acquaintance of Connolly and Thomas Marshall," the communication made no mention of such an acquaintance; for there was none; and the fact that there was none was stated by Colonel Marshall himself in the very letter which was furnished to the public with that communication; and which statement Colonel Brown *suppressed*. In a later communication, published December 4, 1806, A. K. Marshall stated, as one of the proofs that the family of Colonel Marshall had not given to the *Western World* the information upon which its editorials were based, the fact, that, in one of those editorials published in the previous June or July, a previous acquaintance between Connolly and Colonel Marshall had been asserted, which the family all knew to be untrue from Colonel Marshall's own letter.\* The inevitable in-

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informed the head of the government he adored, of the machinations of her foes—not . . . to abuse the presidential ear, by inspiring unworthy suspicions of any man—not as a smiling pick thank, or a base news-monger, but as a man whose services entitled his representations to respect, and whose personal intimacy commanded the executive confidence."

No one can read the above and draw from it any other inference than that the visit of Connolly was made *after* Colonel Marshall had *successfully opposed the project of dismemberment, which was in the November convention*. The fact that but a *single copy* of the paper referred to by him as containing this communication is in existence, made Colonel Brown suppose himself secure from detection.

\* The following is the statement of A. K. Marshall referred to, viz:

"The letters which were promised have been furnished, and the time when, and the reasons why they were furnished was explained in one of my last. If we had shown those letters, as the man supposes, before



felicity which marks all of Colonel Brown's performances in the "Political Beginnings" is in nothing made more conspicuous than in his attempt, by this gross misstatement of Alexander K. Marshall's communication, to slur the dead father by misrepresenting the testimony of the dead son. It is wonderful to see what a superstructure the talented author reared upon the foundation he laid in his unfounded statement that, as members of the July convention, Muter and Marshall had voted for the Wallace and the recommendatory resolutions. Like the Arabian impostor, he seems to have determined to storm the understandings of his readers by the boldness of his leading fictions; so that when once the gates of suspicion against Marshall were forced open, entrance for all future fallacies and misstatements would be made secure.

That Colonel Brown understood the statements of Colonel Marshall and Wilkinson as to the time when Connolly's visit was made, and that he comprehended how completely they refuted his own, is made plain by their careful exclusion from his "Political Beginnings." Colonel Brown says, that "it is not to be asserted that Marshall *agreed*" to the alleged overtures of Connolly, and that "every presumption is to the contrary." But had he not taken such extraordinary pains to *conceal* from his readers what Colonel Marshall had actually said to Connolly, as detailed in the letter to Washington, he would have saved himself the trouble of this misleading admission; that Marshall did not "agree" would not have been left to a mere "presumption;" but his readers would have been furnished with conclusive evidence that Marshall treated the professions of friendship to Kentucky and the proffers made by Connolly with the contempt they merited.

The candid reader has not failed to mark the systematic

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the establishment of the paper, would the editors have stated they were in Richmond, or would they have stated an acquaintance between my father and Colonel Connolly, when the *letter* expressly *denies* such an acquaintance?"

plan which appears in all Colonel Brown's suppressions, nor the deliberate purpose which is apparent in all his inaccuracies; and he has detected the motive of the talented author for concealing the proof that Connolly's visit was made in November, and for incorrectly asserting that it was made in October and before Muter's address was issued;—that it was to lay the basis of his insinuation that the resistance offered by Marshall and Muter to the schemes of Wilkinson and Brown was prompted by Connolly. His attention is now drawn to an additional object of all this suppression of facts, of these misstatements of the evidence, and of these painfully manufactured inaccuracies. On page 202 of his peculiar book, Colonel Brown reveals himself and his purpose still more clearly. Alluding to the adjournment of the November convention, he there says :

"The parting of its members was not the kindly one of the preceding July. Angry taunts of inconsistency had been made against Judge Muter and Colonel Marshall. In turn they branded those who differed from them as traitors. *The visit of Connolly to Marshall was suggested to be a British intrigue, and with equal heat the conversation of Brown with Gardoqui was declared to be a Spanish conspiracy. Colonel Marshall went so far as to write to Washington (12th February, 1789), detailing what had occurred in the convention, and giving his version of what Brown had there said.*"

That is, that Colonel Marshall's charges against Wilkinson and Brown were simply recriminatory, in retort for accusations they had preferred against him; and that it was under the influence of the irritation of the crimination of himself that Colonel Marshall wrote his letter to Washington! It was to prepare the way for this manufactured scene—for these pretended "taunts of inconsistency"—for this grand climax—that Colonel Brown made Muter and Marshall members of the July convention, of which he was informed by two letters of Muter that he was not a member, and by Humphrey Marshall that neither Muter nor Marshall was a member; and that he forced them to vote for the resolution of Wilkinson and Wallace, in spite not only of this proof that neither was a member of that convention, but of Greenup's deposition, which he had read, that he had heard both declare their hostility to

that resolution. It was to lay the foundation for his statement that Colonel Marshall's charges against Wilkinson, Brown and their faction, at the adjournment of the November convention, was simply in retaliation for the "suggestion that the visit of Connolly" to himself "was a British intrigue," that the talented author of the "Political Beginnings" resorted to the bold devices of affirming that visit to have been in October, and of giving the communication of A. K. Marshall, as published in a paper of which there is but one copy in the world, as his authority for that statement;—when he knew positively, that it appeared as distinctly from the communication of the latter, that the visit was not made until after the adjournment of the November convention, as the same fact appeared in the letters of both Wilkinson and Marshall, which he suppresses, and in all the written histories referring to the subject. The scene described by Colonel Brown never occurred. It is purely a creation by the talented author. Neither Muter nor Marshall had ever seen Connolly until a few days after the adjournment, and no suggestion could possibly have been made at that time, that a visit which had not been made was a British intrigue. Not one of these men ever made such a suggestion to Colonel Marshall as that ascribed to them by Colonel Brown. It is true, however, that "alienations there took place, for which time offered no change, nor reflection any relaxation." Colonel Marshall made to the faces of these men in plain terms the charges which he but guardedly conveyed to General Washington. He was at no pains to hide the indignation which flashed from his eye nor the bitter scorn which curled his lip; that they hated him because they knew he understood them, is true, and that Brown, at least, transmitted his rancor is evident from the vindictive aspersions heaped upon Marshall in the "Beginnings."

Colonel Brown is at special pains to impress upon his readers the fact, that Colonel Marshall did not write to Washington the details of Connolly's visit until the 12th of February, 1789, and clearly implies that the delay was

with an object. He deemed it unnecessary to suggest, that there were no mail facilities, and that no chance opportunity of forwarding a communication might have earlier presented itself. Nor does it seem to have occurred to the ingenuous author, that the letter was written immediately after the popular elections were held which called Washington to the Presidency, three weeks before the Electoral Colleges had voted, and two months before his inauguration;—until which event there was no practical object to be accomplished by placing Washington in possession of the information, as, prior to his induction into the Presidency, he was charged with no duty and possessed no power in relation to the subject of the communication. Colonel Brown thinks it a matter of importance that Hary Innes wrote to Washington of Connolly's visit to Kentucky as early as the 18th of December, 1788; and contrasts his promptitude with the delay of Colonel Marshall; and, on page 211, he intimates that in that letter Innes charged Colonel Marshall with being implicated in an intrigue with Connolly.

The reader who has the interest to turn to Sparks, Vol. IX., page 474, will see that no reference whatever to Colonel Marshall was made by Innes in that letter, which did not apply to Marshall any more than it did to Innes' friend, General Charles Scott, who was also visited and conferred with by Connolly.

But there was a marked contrast between the conduct of Marshall and Innes, which Colonel Brown must have noted, but upon which he did not deem it expedient to dwell: While Marshall stated to Washington not only the machinations of the Spaniards, as evidenced by the memorial of Wilkinson, the letters of Brown, and the speeches and conduct of both, but also and as fully the details of Connolly's remarks to Muter and himself, as equally showing the critical condition of affairs in the district, when both Spaniard and Briton assumed, as a foregone conclusion, that Kentucky was on the point of separating from the Union;—Innes, who, since the previous February, had known from Wilkinson all about his engagement with

Miro, who was informed of Gardoqui's proposition to John Brown, who had heard Wilkinson's memorial read and listened to John Brown's speech in the November convention, and who had, in the July, as well as in the November convention, co-operated with them in their efforts to precipitate the district into the initial step of the programme;—Innes wrote to Washington of the "abhorrence and detestation" he had "for a British connexion," and that the conduct of Connolly had "alarmed his fears," but did not write one word of the Spanish machinations with his friends, Wilkinson and Brown! To the unbiased reader, however, this marked contrast in the conduct of the two men, one of whom had nothing, and the other much, to conceal, will appear vastly more significant than that one wrote in December, 1788, and the other in February, 1789.

It suited the purpose of Colonel Brown to ignore all the abundant evidence, that for years there had been British emissaries in Kentucky, and that a disposition had existed on the part of some to seek a British alliance; to refer to the effect of Connolly's visit exclusively as turning "a few minds to the contemplation of an English protectorate;" and then to endeavor to make it appear, that one of those minds was that of Colonel Marshall, and, as the reader has seen, to covertly attribute to that influence the resistance made by Colonel Marshall to the schemes of Wilkinson and Brown. Pursuing this line of insinuation the talented author fishes from the Canadian archives the dispatch of Dorchester and the "Reflexions of a Gentleman from Kentucky," which appear on a previous page, and parading the latter as if it were a bran new discovery, instead of being the "*report of Wilkinson*," the existence of which was known to, and was, with the name of its author, stated by, the editor of the *Western World* in 1806, enters into a labored argument to show that it had emanated from Colonel Marshall. True, Colonel Brown had, on page 184, stated that "it is not to be asserted that Marshall 'agreed' to Connolly's proposition; *every presumption* is to the *contrary*." Nothing in his history war-

rants a suspicion of his devotion to American nationality." But, to so remarkable an author, neither his own statement, nor the unquestionable fact that was thus affirmed, interposed the slightest obstacle to the insinuation and argument he proceeds to make on page 188, that, not only had Colonel Marshall "agreed" with Connolly, but that he had actually written a *solicitation* to the British Government to extend her *protection* over Kentucky, and to "form confidential connexions with men of enterprise, capacity and popular influence resident on the western waters;"—(that is, in plain terms, to bribe him, as Miro bribed John Brown's friends, Wilkinson and Sebastian, and, perhaps, others of the conspirators);—which is unlike any thing which ever proceeded from the pen or mouth of Colonel Marshall, but finds its counterpart in the boasts, in the hints and in the importunities which Wilkinson wrote to the Intendant.\* It is immaterial whether, by a critical examination of Dorchester's language, Colonel Brown had discerned that the men to whose "*more private councils*" Dorchester referred, were "*those*" who had in the late convention proposed "to throw themselves under the protection" of Spain, and that the paper he sets such store by was "*their Reflexions*," and not those of any of the devoted friends of the Union. Nor is it important whether, by a comparison of the language and ideas of the "*Reflexions*" with those of Wilkinson's letters to Miro, he had detected the author of both in his grandfather's friend and leader. It is of some consequence, however, that his own conviction that Colonel Marshall was not one of the men included in those "*more private councils*," nor the author of the base paper he attributes to him, is plainly demonstrated by the remarkable care Colonel Brown took to

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\*In his letter to Miro, of July 14, 1789, Wilkinson wrote, complaining of the indulgence shown by Gardoqui in his efforts to promote emigration to, and settlement in, Louisiana, viz.: "He gives passports to everybody, and instead of *forming connections with men of influence in this district, who should be interested in favoring his designs*, he negotiates with individuals who live in the Atlantic States, who, therefore, have no knowledge of this section of the country, and have no interest in it."

strike out from the middle of the passage he quoted from Colonel Marshall's letter to Washington, Marshall's statement of the decisive and contemptuous manner with which he treated the Tory's communications.

Following the line of misrepresentation which he had systematized, Colonel Brown says: "It is well established that Connolly conferred with no more than four men of importance in Kentucky, General James Wilkinson, General Charles Scott, Colonel Thomas Marshall and Judge George Muter. The mind naturally turns to one of them as the author" of the paper which no one who was not thoroughly and infamously a traitor at heart could or would have written. Scott is then dismissed from consideration because of his literary incapacity. His grandfather's friend, Wilkinson, is then eliminated, as if an algebraic zero, on the ground of the dissimilarity between his *style* and that of the "Reflexions,"—of the sufficiency of which the reader, who has noted the identity between the ideas and expressions in the "Reflexions" and those used by Wilkinson, can judge. And for the further reason that Wilkinson was already committed to Spain;—the force of which the reader, who knows how Wilkinson, when the commander-in-chief of the United States army, intrigued with Burr to invade Mexico, and at the same time demanded money from Spain as the price of thwarting Burr,—wearing the uniform of an American major-general, and at the same time receiving a pension from Spain for his services in attempting to dismember the Union,—can estimate at its proper value. Having thus disposed of Scott and Wilkinson, the talented author continues: "There is left the unpleasant suggestion that Thomas Marshall or George Muter was its author." Afterwards, poor old Muter is dropped as weak and unstable, and the paper is assumed to have been written, and either delivered or forwarded to Connolly, by Colonel Marshall;—who, to have become the author of the paper thus wantonly and maliciously attributed to him, would have found it necessary to have suddenly transformed his own nature from that of the loyal, patriotic soldier, and the bold, frank



man he had been for nearly three score years, to that of a sly knave and a sneaking traitor, whose heart was false and whose pen dripped lies. For there can be no question but that, if the same man who wrote the letter addressed by Colonel Marshall to Washington also wrote that paper, then that man added the meanness of a base liar to the guilt of a secret conspirator.

If it be charitably assumed that Colonel Brown was really ignorant that the "Reflexions" were written by Wilkinson, as all the evidence combines to prove—nevertheless it is true, that if he had published the statement of that conspirator, that Connolly had arrived in Louisville in the beginning of October, had remained there for six weeks before going to Fayette, and thus had ample opportunity for conferring with many of the prominent men of the district, and that his visit to Wilkinson was made in November,—it would have disproved his own statement, that it is clearly established that Connolly conferred with only the four men whom he named, and would have overthrown the entire structure which he erected out of materials of his own manufacture. The statement of Colonel Marshall, which he suppressed, that Connolly was introduced to Muter and himself by Colonel John Campbell, who privately stated the purpose of his visit, and that Connolly *knew* the part which Muter and himself had taken *in the convention of November in defeating* the "Spanish business," would have confirmed Wilkinson and have added to his own discomfiture. It was for that reason *they were suppressed* and the communication of A. K. Marshall was misrepresented and falsified. That Colonel Brown's imputation upon Colonel Marshall is made hypothetically renders it the more unworthy. His very admission that there is no "*positive proof*" that either Muter or Marshall wrote the treasonable paper distinctly implies that there *is* proof, though not *positive*, that one or the other was its author. To make this injustice appear to be true, he garbled, suppressed, and perverted the evidence, and misrepresented and misstated all the facts, in a manner to which no man who believed his own cause to be

just could ever resort. A man ignorant that Wilkinson was the author, and yet who had an honest purpose to make known the truth, would have deemed it a simple duty to declare, that there is *no shadow of evidence* that either Muter or Marshall had degraded himself by conduct as infamous as that which they had both recently denounced and thwarted in Wilkinson and Brown.

If the writer has wearied the patience of the reader by dwelling on this subject, it is because it seemed necessary to complete the exposure of the methods employed in the "Political Beginnings." The reputation of Colonel Marshall needs no vindication against the attempt of Colonel Brown to shift upon him this treasonable bantling of his ancestor's bosom friend. The letter to Washington speaks for itself. If there were no proof that the traitor Wilkinson was the author of the "Reflexions," the record of Colonel Marshall's private and public life, his every utterance, his patriotic services, as valuable as they are well known, unite in loudly proclaiming and ineffaceably branding for what it is this gratuitous and characteristic aspersion upon his loyalty and truth.

As the enraptured eye of the wearied traveler in the Sahara rests with delight upon the distant palm trees which shade the sparkling spring of sweet and living water, that gushes out from amidst the sands of the desert;—so will the reader who has wandered through this bewildering maze of suppression, evasion and invented inaccuracy which appear in the "Political Beginnings," be charmed to find in all its pages a solitary truth. The plaintive statement, that while "Thomas Marshall did hint suspicions of Brown," yet "Brown never allowed himself to question the patriotism of Thomas Marshall," is exactly correct. And the reader will conclude that each had an equally sufficient reason for his course. Thomas Marshall hinted suspicions of Brown because he knew from Brown's own letters and words that those suspicions were well founded. And Brown did not permit himself to question the patriotism of Thomas Marshall, not simply because he knew that it would have been unjust, but because he was

conscious that every one else would have known that it was false.\*

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\*Thomas Marshall, the oldest son of John Marshall and Elizabeth Markham, was born in Westmoreland county, Va., April 2, 1730. His first military service was as a "trooper" from Prince William, in the Braddock campaign. From 1759 to the breaking out of hostilities with Great Britain, he frequently represented Fauquier in the House of Burgesses, and was three times appointed, with Washington, Fielding, Lewis, William Green, and others, to settle the claims of soldiers in the French and Indian war. He was a member of the Virginia Convention of 1775, but left his seat to assist in organizing the "Culpepper Minute Men," of which regiment he was major, and won distinction at the battle of the Great Bridge. He was also a member of the Convention of 1776, and was on the committee which drew up the ordinance for organizing the military forces of the state; but he left his seat in that body also to take the place of major of the Third Virginia Infantry, Continental Line. He was soon placed in command of the regiment, which performed severe duty in the year 1776. The next year he won particular distinction at Germantown and at Brandywine, where more than one-half of his officers and one-third of his men were killed and wounded. He was transferred to the coloneley of the First Artillery, Virginia State Line, in 1778, and commanded that regiment until the expiration of its term of service, in 1781. Three of his sons—all who were old enough—were officers in the Revolution—John at 19, Thomas at 16, and James M. at 15 years of age. His kindred and his wife's kindred, in every direction, were in the patriot army—Marshalls, Markhams, Odens, Durrettts, McClanahans, Keiths, Keys, Fords, Flemings, Randolphs, Lees, and Blands.

## CHAPTER XIX.

KENTUCKY FINALLY BECOMES A STATE, AND IS ADMITTED INTO THE UNION—WILKINSON, BROWN, SEBASTIAN, INNES AND DUNN APPLY TO SPAIN FOR A GRANT OF LAND—WILKINSON EXPLAINS THAT IT IS DESIRED FOR A PLACE OF REFUGE IN CASE KENTUCKY GETS TOO HOT FOR THEM—COLONEL BROWN CONCEALS THE FACT THAT THE OTHERS WERE JOHN BROWN'S ASSOCIATES IN THE PROPOSED ENTERPRISE—MIRO PROMISES WILKINSON THAT HE SHALL BE REWARDED—WILKINSON THE SPANISH AGENT AND RETAINED IN HER SERVICE—MIRO, IN 1790, RECOMMENDS THAT HE BE PENSIONED—THE PENSION PROBABLY GRANTED THEN—THE VARIOUS SUMS RECEIVED BY WILKINSON AFTER HIS APPOINTMENT TO THE ARMY NOT ON ACCOUNT OF TOBACCO SALES—THE MURDER OF HENRY OWEN—MURDERERS HURRIED AWAY BY WILKINSON AND INNES—EFFORTS OF COLONEL BROWN TO AVOID MARSHALL'S INFERENCE—HE MISREPRESENTS THRUSTON'S DEPOSITION, WHICH FLATLY CONTRADICTS HIS STATEMENT—THE MURDER COMMITTED WITHIN AMERICAN TERRITORY AND JURISDICTION—AFFIDAVITS OF LANGLOIS AND BOULIGNY.

In compliance with the request preferred in the Address finally adopted by the November convention, the Virginia Assembly manifested the hearty good will of the mother state and her sincere desire to further the wishes and promote the welfare of her children in the distant district, by passing a new act of separation. But, like those which preceded it, this act provided that the separation should not take place unless Congress should previously concur and provide for the admission of Kentucky as a state into the Union simultaneously therewith. The elections for members of another convention were held in April, 1789, and were unmarked by disturbance; for Wilkinson and Brown were not candidates. Muter and Marshall were again chosen from Fayette. On the 20th of July of the same year the convention assembled. It was ascertained that the conditions specified by the new act were materially different from those which had formerly been agreed to, and that the change would be seriously detrimental to the interests of the proposed Commonwealth. The most ob-

jectionable feature in the new proposition was that which reserved to claimants holding Virginia land warrants an unlimited time for location and survey. Therefore, instead of proceeding thereunder, the convention addressed the assembly in a respectful request to rescind the objectionable conditions and that others be adopted conforming to those to which mutual agreement had already been given. This also was immediately done by the assembly; but still another convention was required, and further postponement was unavoidable. The elections for the convention thus ordered were held in May, 1790; the convention was convened at Danville on the 26th of July, 1790, and George Muter was chosen president thereof; the terms of the last act of separation were formally accepted; the address to the assembly announcing this acceptance was prepared and reported by the able and popular Alexander S. Bullitt; and a memorial to the President and Congress, presented to the convention by James Markham Marshall,\* was

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\* James Markham, third son of Colonel Thomas Marshall, was born in 1764, and, until he was fifteen years old, was educated at his father's home by Scotch tutors. He then entered the First Virginia Artillery, State Line, commanded by his father, as a cadet, and remained in it until its term of service had expired, when he had reached the rank of Captain. The statement of Mr. Paxton that he served to the close of the war as a Lieutenant in the regiment of Alexander Hamilton is an error; and if, as is not probable, he "led the forlorn hope at the siege of Yorktown, in an attack upon the fort," it was as a volunteer, for he was never a member of any other regiment than the Artillery. He did not remain long in Kentucky. In 1793, he was a resident of Philadelphia. In that city he married, in 1795, Hester, the daughter of Robert Morris, the patriotic financier of the Revolution, and went with her to Europe as the agent of the merchants of Charleston, Baltimore and New York. The statement of Mr. Paxton that he negotiated the release of Lafayette from his imprisonment at Olmutz is also a mistake. The credit of that negotiation is due chiefly, if not altogether, to the distinguished Gouverneur Morris. It is true, however, that Marshall was appointed by Washington on a special and secret mission to the King of Prussia to secure the release of Lafayette from imprisonment at Berlin. But before he reached that city the gallant Frenchman had been released by the King; so that he had no participation in the matter. While in England, he purchased from the heirs of Lord Fairfax, in his own name, and in those of his elder brother, John Marshall, of Raleigh Colston, his brother-in-law, and of Light Horse Harry Lee, his kinsman,

adopted. It expressed "attachment to the present happy establishment of the Federal Constitution and Government, stated the causes and motives for separating from Virginia, the ability of Kentucky to sustain a separate state government, and the time to which its organization was limited, and praying Congress and the President to sanction the

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their entire inheritance in the "Northern Neck;" which gave them, after compromise with Virginia, 180,000 in the Leed's Parish. James M. Marshall bought General Lee's interest, and thus became the owner of half of the purchase. He was one of the "Midnight Judges" appointed by Adams, and had the reputation of abilities equal to those of the Chief Justice.

The oldest son of James M. Marshall—Thomas—married Catharine Thornton, a granddaughter of Judge Innes. His other sons were the late Robert Morris Marshall, of Happy Creek; Lieutenant John Marshall, of the Navy; the present Dr. Henry Marshall; and the eminent lawyer, the late James Marshall, of Winchester. The last named was a Union member of the Virginia convention of 1861. The only daughter of James M. Marshall, Susan, is the widow of the late Dr. Cary Ambler, of Fauquier. "Keith," a correspondent of the *Commercial Gazette*, of Cincinnati, after mentioning the records of numerous descendants of James M. Marshall, as soldiers in the Confederate army, wrote:

"But braver far than any of these, more heroic than any paladin who ever led in headlong charge, or grimly brought up the rear guard in stubborn retreat, was that other grandson, the modest and gentle Dr. James Markham Marshall Ambler, who, upon the frozen banks of the Lena, in far away Siberia, laid down a young life marked by every high quality that could grace a gentleman. Graduating in medicine at the University of Maryland in 1869, he entered the Navy as a surgeon in 1874. Though engaged to be married, the request telegraphed by the Department, that he would volunteer for duty on the ill-fated Jeannette, was one a soul like his could not decline. It is known that he might have saved his own life by leaving his comrades in the venture, but preferred to die with them—a true soldier of duty, at his post. On a tablet in the Leeds Church, which commemorates his virtues, his fellow-surgeons of the Navy recorded, that 'his sense of duty was stronger than his love of life;' and on a similar tablet, his former friends and classmates at the Washington and Lee University, bore testimony that 'he declined the last chance of life that he might help his comrades. His last written words were the confident expression of his Christian faith. To him duty was the noblest word in the English language.' 'Greater love hath no man than this, that a man lay down his life for his friends.' A nobler fame, a braver end, than any that could be won or had in private brawl or on duelling ground! Yes, verily! He lived purely. In death he reflected honor upon his lineage, upon his country, and upon mankind."

whole proceedings, by passing an act of admission for the 'State of Kentucky' into the Union, agreeable to the time prescribed by Virginia in her act for that purpose." Provision was made for the election of a *ninth* convention, to assemble in April, 1792, to form a State Constitution. In December, 1790, the admission of Kentucky into the Union was strongly recommended by Washington in a message to Congress, and the necessary act for that purpose was accordingly passed on the 4th of February, 1791. The ninth and last convention was chosen and assembled at the designated times, the first constitution was formed, which the people ratified in May, when officers were elected, and the new Commonwealth, after so many trials in which the patriotism of the masses of the people had been tested and proven, was at length fairly launched.

In the meantime, a few weeks after the November convention, of 1788, a petition was forwarded to Gardoqui by leaders of the Spanish party in Kentucky, soliciting the grant of a large body of land in the Louisiana territory, on the Yazoo and Mississippi rivers, which Wilkinson described as "the most advantageous site to form a settlement above Natchez."\* This petition was forwarded to Gardoqui by Major Isaac Dunn, the confidential agent and partner of Wilkinson, who wrote to Miro: "That petition is signed by Innes, Sebastian, Dunn, Brown, and myself,"—*par nobile fratrum*. This petition of the associates was accompanied by the letter from Wilkinson to Gardoqui, which has been already quoted.† In it he explained, that the proposition suggested was in the interest of the plans which had been arranged with Miro, and for details it referred him to Dunn. In his letter to Miro, of February 12, 1789, Wilkinson informed the Intendant of his application to the minister, and explained that "*The motive for this application is to procure a place of refuge for myself and adherents, in case it should become necessary for us to retire from this country, in order to avoid the*

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\*Gayarre, page 243.

†Ibid, pages 247 to 251.



resentment of Congress.”\* The whole scope and every line of the correspondence attests that the entire purpose of this and all other projects for colonizing Louisiana by emigration from Kentucky and the West and South, were in distinct compliance with the advice of Navarro, thus to build up a bulwark against the growing power of the United States ; and, however ill digested, delusive and futile they may now seem, were parts of the general scheme for separating Kentucky from the Union.

That in this and in all other similar projects, of which there were many at the time, Wilkinson acted in the interest and as the agent of Spain, is shown by the reply of Miro to Wilkinson's letter communicating his petition to Gardoqui. The service to be rendered to the king by promoting the immigration to Louisiana of persons who needed only lands and not money, was favorably mentioned. “It is proper,” Miro continued, “that you should remain in that district, in order to insist on an alliance with Spain until it be effected or given up ; because, *according to the answer received from the Court, you are now our agent, and I am instructed to give you to hope that the king will reward your services as I have already intimated to you.*” And in his dispatch to the Court of Madrid, Miro recommended that \$5,000, which Wilkinson claimed to have expended in the interest of Spain, should be refunded to him, and that he should be further entrusted with \$2,500, which he had asked for, to corrupt Muter and Marshall.† In a note at the bottom of page 172, of the “Beginnings,” reference is made to a conversation alleged to have taken place between Gardoqui and John Brown in June, 1789, relating to this very petition of which he wrote to Miro and which John Brown had, conjointly with his friends, Wilkinson, Sebastian, Dunn, and Innes, previously conveyed to Gardoqui, as though it had been a proposition then for the first time made by Brown alone, and as if its sole object was to secure the navigation of the Mississippi

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\*Gayarre, page 234.

†Ibid, pages 255-6.

for Kentucky. Thus: "Still bent upon pushing every practical expedient for securing the navigation of the Mississippi, Brown opened the subject by adverting to Morgan's New Madrid colony, established the year before, and offered to find the capital for establishing, at the mouth of the Big Black river, one hundred American families within eighteen months." . . . The letters of Miro and Wilkinson, published in Gayarre, with which Colonel Brown was familiar, throw a vastly different light upon this project from that sought to be cast by the "Beginnings;" they disclose the real object of the scheme; and they were, on that account, discreetly skipped over by Colonel Brown, while the names of his grandfather's associates in the enterprise, which of themselves suggest much as to its nature, were, for the same reason, most prudently suppressed.

The reader is informed of the affidavit made by Daniel Clark, jr., which was submitted to Congress in 1808; and of the methods used by Wilkinson to discredit the testimony of Clark and Power, given before the court-martial which was then ordered for the trial of Wilkinson, who had then attained the highest position in the army. He is also informed of the manner in which that discredited evidence was afterwards confirmed by the publication of the conspirator's own letters, obtained from the Spanish archives. Clark affirmed that, about the year 1789,\* he had seen "a list of names of citizens of the western country, which was in the hand-writing of the General, who were recommended for pensions, and the sums proper to be paid to each were stated; and I then distinctly understood that he and others were then actually pensioners of the Spanish Government. I had no personal knowledge of money being paid to Wilkinson, or to any agent for him, on account of his pension, previous to the year 1793 or 1794." He then detailed sums of money which he knew had been paid to Wilkinson on account of his pen-

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\*Daniel Clark, jr., was the father of Mrs. Myra, widow of General Edward Pendleton Gaines.

sion, at various times and through different persons, amounting in the aggregate to nearly \$30,000. The receipt of some of these remittances were denied by Wilkinson in the subsequent military inquiry, and those which were proven so that they could not be denied he asserted had been paid for damaged tobacco, which had been condemned, but was afterwards received and paid for by the Spanish Government. As it was certain that he had made sales of tobacco to that government, his subordinates in the army, with whom he was popular, were only too glad to avail themselves of the "presumption" thus created, to acquit him.

In his Centennial Address, Colonel Brown, who was laboring to show that the corruption of Wilkinson had commenced long after he had abdicated the leadership which John Brown and Innes recognized, accepted the version given by Wilkinson of the receipt of these various sums. He may never have read the interesting volume published by Dan. Clark in 1809, in which the false pretenses of Wilkinson were completely exploded. In that book it was shown that, in 1787, Wilkinson and Isaac B. Dunn were partners, and that Daniel Clark, Senior, the uncle of the witness, acted as their agent for the sales of their shipment of that year, which amounted in the aggregate to \$10,805. Of this sum, \$3,000 were due to Clark, being for money he had advanced to Wilkinson, on the recommendation of the Spanish officials, before he left New Orleans. Several of Wilkinson's bills or drafts in favor of different parties were accepted and paid; \$3,389 was paid in cash to Dunn in July, 1788; and on the 8th of August, 1788, all the balance due was paid, and the account was receipted in full by Dunn and was closed.\* On that same day, August 8, 1788, a new partnership was formed between Wilkinson and Daniel Clark, Senior, and the sales of tobacco to the Spanish government were thereafter made by the latter. Their gross amount up to May

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\* "*Proofs of the Corruption of General James Wilkinson, and of his Connection with Aaron Burr*," by Daniel Clark, of the City of New Orleans, Appendix, pages 55-6.

1, 1789, when the partnership terminated, was \$16,441. As before, a large part of this had been anticipated by Wilkinson. On May 1, 1789, a balance of \$6,251 due Wilkinson was paid upon his order to Captain Abner Dunn, (brother of Isaac B. Dunn,) who examined the account, certified to its correctness, and receipted for the money; and thus also that account was settled and closed.\* This account did not include \$6,000 which Ballinger, one of Wilkinson's friends and agents, carried up and delivered to him in Frankfort, that same year; and it results that *that sum was not paid to him on account of any commercial transactions with the Spanish government*, from which Ballinger received it. There was another transaction, however, during the same year, prior to the dissolution of the partnership. Clark had sent up the river on the joint account, a boat called the Speedwell, with a cargo amounting to about \$8,000, which was not included in this settlement. Wilkinson agreed to invest the proceeds of the cargo in good tobacco and ship it to New Orleans, and when this was done, the partnership was to cease. This shipment was to have been made in December, 1789, but was not made until June, 1790; and in the meantime, since the preceding May, no other shipment had been made. The accounts of the sales of the Speedwell's cargo, as well as of the tobacco, were kept by Philip Nolan, Wilkinson's protégé. The tobacco was sold to the Spanish government; the net sum realized was \$15,850. This account was also closed September 21, 1790, the profits were divided, Wilkinson's portion was paid to and receipted for by Nolan, who applied it to the payment of Wilkinson's debts, which were as numerous as his creditors were clamorous. In the settlement an error of \$473 against Clark was discovered, which was certified to by Nolan, but the amount was never paid by Wilkinson. That none of the money he was proved to have received from the Spanish government after he went into the army was due from any of his commercial transactions up to

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\* Ibid, page 57.

September 1, 1790, is proved by these accounts. The next year Wilkinson formed a partnership with Peyton Short,\* which, their ventures being unfortunate, completed the bankruptcy of Wilkinson's already desperate fortunes, while Short never recovered from the embarrassment entailed by his brief commercial connection with the most greedy and unscrupulous of adventurers. Neither the accounts of Short nor those of Dunn gave any clew to any debts in New Orleans remaining due to the firms in which they were associated with Wilkinson, nor to any tobacco they had in storage there or anywhere else, whether damaged or sound. With Wilkinson's appointment to the army, in 1791, all his commercial ventures ceased. His claim, that the various sums paid to him by the Spanish government after that time, amounting to many thousands of dollars, were in payment of damaged tobacco shipped to New Orleans in 1789, and stored in that city since that time, was proved by the accounts of his several firms to have been a fraud as transparent and impudent as his treason was flagrant. The conclusion is irresistible, that, in fulfillment of the written promise given on the faith of the Spanish king, by Miro, in 1790, they were the reward of treason which commenced in 1787; that, having been already in the employ of Spain as the

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\* This gentleman came of an excellent and prominent Virginian family. He came early to the west, bringing with him a much larger share of this world's goods than generally belonged to his contemporaries. He married a daughter of Judge John Cleves Symmes—her sister was the wife of General William Henry Harrison. His wife's mother was one of the gifted Livingston family of the east, who in this country have added honors to a name which ranks high in the annals of Scotland. A brother of Peyton Short,—William—was for years engaged in the diplomatic service of the United States. Accumulating a large fortune, and dying unmarried, he left his estate to his nephews, the late Judge William Short, of Cincinnati, and the late Dr. Charles W. Short, of Louisville. Wilkinson went into the army in debt to Peyton Short and to many others, availed himself of his official position to evade and delay payment, but was finally forced to a settlement with Short by the celebrated James Hughes, whom he had attempted to bully in 1788. Others were not so fortunate in ever securing their dues. He "translated to himself the property" of all who permitted that operation.

agent of that power in its projects for the division of our country, the recommendations of Miro that he should be "*retained*" in that service on an "annual pension" were effective, and that the payment of the pension was then commenced.

Needing a trusty agent to go to New Orleans to convey to him the wages of his infamy, Wilkinson, who was then in the army and stationed at Fort Washington, in 1794 applied to his friend, Hary Innes, who had removed from Danville to Frankfort and was the Judge of the Federal court, to recommend to him a man adapted for the secret and perilous service. A neighbor of Innes, one Henry Owen, was chosen, who thereupon proceeded to New Orleans, and there received from the Baron de Carondelet \$6,000 to be conveyed to Wilkinson. With this sum in charge Owen was sent by Carondelet to New Madrid, with a letter to Portell, the commandant. By Portell he was embarked on a galliot commanded by Francis Langlois, and was conveyed to the mouth of the Ohio, all the territory on both banks of which river was within the United States. There he was provided by Langlois with a boat's crew of six men and was shipped with Wilkinson's money on a pirogue or canoe. While ascending the Ohio, and when within the territory and jurisdiction of the United States, he was murdered and robbed by his crew, on the Ohio river, near its northern shore, and thus within the jurisdiction of the state and Federal courts of Kentucky. Three of the murderers were afterwards arrested in the neighborhood of Frankfort, and were brought before the Federal Judge, Innes, the friend of their victim, who refused to try them. In his History, Humphrey Marshall states that the ground of this refusal was that the murderers were "Spanish subjects," which, as every intelligent reader will comprehend, was as insufficient as it was ridiculous. But he "quietly committed them to the custody of his brother-in-law, Charles Smith, who, with a little guard hired by the Judge, was directed to deliver them to General Wilkinson at Fort Washington. Smith was ordered by Wilkinson to convey them to the Spanish

commandant at New Madrid, and in complying with his instructions attempted to pass the American Fort Massac in the night. But the officer commanding at that post had been directed by General Wayne to watch the suspicious intercourse between Wilkinson and the Spaniards, and stopped the boat. He did not clearly perceive why felons who had murdered and robbed an American citizen, within American territory, should be thus smuggled away from the jurisdiction of American courts. Instead of permitting Smith to pass with the murderers he sent to Portell at New Madrid for an interpreter to interrogate them. The Spaniards were most unwilling that, by an investigation in an American court, the facts of the communication between Carondelet and Wilkinson should be developed, the interpreter did not divulge the confessions made by the villains, all evidence as to their guilt was withheld, and they were finally discharged. Marshall distinctly intimates that the motive of Innes and Wilkinson, in thus endeavoring to ship those murderers to the Spanish authorities, was, not only that they might be put to death summarily, but, chiefly, in order to suppress the exposure that might be the result of a public trial by an American court. Whether or not his inference was just, the *facts* he stated are clearly established.

Colonel Brown, alluding to Daniel Clark's deposition in 1808, says, that the statement made by the witness that he had knowledge that Wilkinson was receiving a Spanish pension as early as 1793 or 1794 is clearly an error; that Clark seems to have regarded the \$6,000 sent from New Orleans in Owen's care, as a pension fund; but that the accounts between Wilkinson and Miro show this sum to have been a remittance due Wilkinson on his tobacco venture.\* The facts already stated disprove this assertion. It is worthy of note, too, that the money "sent from New Orleans in Owen's care" was so sent by the Baron de Carondelet, *direct from the Spanish treasury*, nearly *three years* after Miro had left New Orleans for

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\* Centennial Address, note at bottom of pages 16 and 17.



Spain. The reader will observe that Colonel Brown refers to the sum of which Owen was robbed as if that was the only amount mentioned by Clark's deposition as received by Wilkinson in payment of his pension. Of course, Colonel Brown had read the deposition which he cited. If this reasonable supposition is correct, he had read in that deposition Clark's statement of the sum conveyed by Joseph Collins by the sea to New York, and thence to Wilkinson at Fort Washington, where it was paid to Wilkinson in the presence of his friend, John Brown, in 1795. Wilkinson refused to give a receipt for the money, telling Collins that Brown was a witness that it had been paid. He had read in that deposition the statement of the money conveyed to Wilkinson by Thomas Power and of various other sums which Wilkinson received direct from the Spanish government between 1793 and 1797. But to have mentioned them would, to say the least, have cast doubt upon his claim that the pension did not commence until 1797, and that the sum of which Owen was robbed was due to Wilkinson by the estate of Miro, on account of his tobacco venture. All mention of them was, therefore, omitted from the reminiscences that enliven the Address.

Whether or not the inference of Humphrey Marshall as to the motive of Judge Innes and General Wilkinson in refusing to try and hurrying the murderers of Owen out of the reach of American courts, was just;—it is certain that Colonel Brown was of the opinion, that, if the murder was committed within American jurisdiction, there could have been no sufficient or honest motive for the course pursued by the Federal judge and the Federal general, those familiar friends and coadjutors of John Brown in the times of 1788. In his judgment, evidently, if the *facts* stated by Marshall were admitted, there was no escape from his *inference*;—if the premises were conceded, the conclusion naturally followed. Still, the course of Innes and Wilkinson must be defended. The emergency was, therefore, surmounted and the difficulty overcome, by the cool assertion, that the murder was perpetrated within *Spanish territory*, and, hence, of course, neither Innes nor

any other American judge had jurisdiction. True, every book that had ever referred to the subject had stated that the murder was perpetrated within American territory. And Colonel Brown had read in Governor Greenup's deposition that he had "heard that this man was murdered on the Ohio." Yet the necessity of extricating Judge Innes from that affair seemed to be urgent. And the author, who afterwards represented the communication of A. K. Marshall in the *Western World* of October 25, 1806, (only one copy of which paper is in existence) to have detailed the previous acquaintance between Connolly and Colonel Marshall, and to have stated that Connolly's visit was made in October, in order to show that Colonel Marshall had been influenced and won over by the Tory's overture;—this orator and author was not to be daunted by petty difficulties when an old friend needed assistance. So, the reader of his Address finds at the bottom of page 10, a note in which this appears, viz :

"The murderers of Owen (*he was murdered in Spanish territory*) were brought to Frankfort and kept under guard in the house of Jeremiah Gullion, which stood where the Methodist Church is now built on Washington street. There Judge Innes and Buckner Thruston (afterwards Senator) examined them. They were forwarded to the military commandant (Wilkinson) at Fort Washington (or Cincinnati), there being no treaty of extradition, nor any judicial power to commit, try or surrender them for a crime *committed in a foreign jurisdiction.*"

In support of this cool assertion Colonel Brown referred to the deposition of Buckner Thruston in the case of *Innes v. Marshall*, the original of which had been taken away from the Clerk's office at Harrodsburg, and was safely hidden in a box at the Polytechnic Library in Louisville, there being but two copies thereof in existence, one of which Colonel Brown had before him as he wrote. Said Colonel Brown : "The action of Judge Innes and *his explanation of lack of judicial power is detailed by Buckner Thruston in his deposition.*" The reader will now be curious to ascertain what Thruston said on the subject. It is here produced, viz :

"That, being at Frankfort in the State of Kentucky, in the month of December, 1794, (as well as he remembers) during the sitting of the

Legislature, he understood that Governor Shelby had received a letter from the Spanish commandant at New Madrid, informing him of the murder of a certain Henry Owen, by some boatmen *who were conducting the said Owen up the Ohio to Fort Washington*, with a sum of money for General Wilkinson, and that the said boatmen had also robbed the said Owen and fled to Kentucky; and requesting the governor, Shelby, to endeavor to have the said murderers apprehended; that some days afterwards, three men who appeared to be Spaniards or Frenchmen, were brought to Frankfort aforesaid, supposed to be the same murderers mentioned in the said Spanish commandant's letter."

Judge Thruston continued: "It was generally understood (as this deponent verily believes) that the said murder had been perpetrated out of the State of Kentucky, viz: on the north-west side of *the Ohio river*, and (as this deponent thinks) it was so stated in the Spanish commandant's letter." Colonel Brown assuredly was not ignorant that the territory on *both sides of the Ohio river* was American, and had *never* been Spanish. The evidence of Thruston does not suggest, that there was the slightest doubt in his mind, that either the federal or the state courts of Kentucky had jurisdiction in this case;—because, though he said the murder had been "*committed out of the State of Kentucky*," he immediately qualified that statement by the explanation, that what he meant was that it had been perpetrated "*on the north-west side of the Ohio RIVER*," which he knew, and which Colonel Brown very well knew, was within the *jurisdiction* of Kentucky, and of the federal district court therefor, which jurisdiction extended then, as it does now, *to low water mark* on that side of the Ohio river. And, even had the state and federal courts of Kentucky possessed no jurisdiction of this offense, by reason of its having been perpetrated beyond that jurisdiction, in that case Judge Thruston knew, and Colonel Brown was fully aware, that the federal court for the territory of Illinois or that for Indiana, both of which were then in full operation, would have had plenary power in the premises;—so that, if Innes had no power to try them, then the only proper and legal course to pursue was, to remand them until the proper measures could have been instituted for handing them over to the custody of

those who had the power and were charged with the duty of trying and punishing their crime. Instead of which, the Federal Judge, with an expedition and vigor which seldom marked his movements, hurried them off to his friend Wilkinson, who, in turn, made an effort to hurry them out of the reach of all American authorities. It is true, that Judge Thruston deposed as his belief, that Innes in thus acting had "acted as an *individual*, and not in his *official character as a judge*; in which latter character, this deponent does not think the said Innes had *competent authority to take such steps*." But it is manifest to the reader, that, whether Innes acted as a judge, or as an individual, his taking possession of the murderers and hurrying them away, had the same effect to prevent an examination by an American court. It is true, also, that Thruston expressed his belief that Innes was actuated by "virtuous motives," and that he "concurred" in Innes' course "as the most *probable* way of bringing them to justice; which it was believed they would certainly meet with if they could be returned into the hands of the said Spanish commandant." But if the author of "The Political Beginnings" had himself been satisfied with this reasoning, he would have published what Thruston really testified, and would not, in the face of Thruston's deposition, have asserted that the murder was committed within Spanish territory, and as proof of that assertion have referred to a deposition which he supposed would never be examined, and which flatly contradicted his own statement.

Colonel Brown's address refers to Clark's deposition taken by order of Congress. He may, however, never have read Clark's publication in 1809. Let it be assumed that, in his explorations, he never did. Nevertheless, the affidavits of Langlois\* and of Bouligny,\* which appear in

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\* "On this twenty-ninth day of December, in the year one thousand eight hundred and eight, personally appeared before me, the undersigned, one of the justices of the peace for the county of Orleans, Monsieur Francis Langlois, a citizen of the United States and resident of New Orleans, who, being duly sworn on the Holy Bible, did depose and say, that in the year 1794 he was a lieutenant of militia, in the service

that publication, fully sustain Marshall and Greenup and Thruston, that the murder was perpetrated within American territory, and within the jurisdiction of American courts, and flatly contradict and disprove Colonel Brown's

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of his Catholic Majesty, and commanded the galliot the Flecha, then on station at New Madrid, having under his orders the gunboat the Taureau and batteau the Prince of Asturias; that whilst there a Mr. Owens arrived from New Orleans with a sum of money, entrusted to him by the Baron de Carondelet, to be delivered to General Wilkinson somewhere on the Ohio, and this deponent had direction from the said Baron de Carondelet to take measures, in concert with Don Thomas Portell, the commandant at New Madrid, and the aforesaid Owens, to have the sum entrusted to the charge of this latter conveyed in safety to its destination—in consequence thereof this deponent, at a council held at New Madrid, by Portell, Owens and himself, recommended that resident citizens of that place should be employed to accompany Owens, but his opinion was overruled by Portell and Owens, who thought it would be more economical, and consequently more agreeable to the Spanish Government, to have a boat's crew furnished from the galliot of this deponent, which he furnished; and further he deposes, that the sum of six thousand dollars, which had been brought by Owens from New Orleans to New Madrid, and by him delivered to Don Thomas Portell, the commandant of the fort, *was by Portell embarked on board the galliot of this deponent, to be conveyed to the mouth of the Ohio, at which place he furnished Owens with a patron, named Pepello, and six of his oarsmen, and shipped in his canoe the before mentioned sum of six thousand dollars, to be delivered to General Wilkinson; and he declares that the sum was packed by himself in three small barrels, but being apprehensive of some bad design on the part of Owens' crew, he took back the money into his galliot, and retained it twenty-four hours in his possession, when, at Owens' pressing solicitations, he re-delivered it to him, who then departed with it, and some short time afterwards he learned that Owens had been murdered by his crew, and the money made away with by them; and further he, this deponent, declares that he afterwards arrested, and sent to New Orleans for trial, one Vexerano, one of Owens' crew, who was concerned in the murder of said Owens and the plunder of the money. He further deposes, that, although it was agreed between the Spanish Government and Owens, to save appearances, that the money should appear to belong to said Owens, yet he knows it was sent by the Baron de Carondelet, for the use of, and to be delivered to, General Wilkinson, and that knowing the interest which the Spanish Government had in this transaction, he wrote an official account to the Baron de Carondelet of the part he had taken in it, and the advice he had given respecting the conveyance of the money safely to its destination, and in reply the Baron regretted that his advice had not been followed in every particular, and the deponent further declares, that Owens had no other money*

statement that it was perpetrated in Spanish territory ;— which is without any authority whatever, and originated in what he apparently deemed the urgency of his case. How desperate that case seemed to him ; how inevitable the damaging inference of Marshall from the certain and proven facts appeared to the calm judgment and alert perception of the author of the Address, is made patent by the tremendous efforts put forth to avoid what impressed him as the justice of that conclusion.

No difficulty daunts a man who is conscious of his own genius. In the "Political Beginnings" Colonel Brown obliterated space by making John Brown, (who was in Danville at the time,) "representing Kentucky in the Virginia Senate," procure from that body the passage of the resolutions of 1786 relating to the Mississippi. In the same book he annihilated time, by making the same John

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than the six thousand dollars above mentioned. In testimony of which he has signed,

F. LANGLOIS."

D. BOULIGNY, Justice of Peace.

"On the 16th day of the month of January, in the year 1809, personally appeared before me, the undersigned, a justice of peace for the city of New Orleans, Monsieur Dominique Bouligny, formerly adjutant-major of the Regiment of Louisiana, in the service of his Catholic Majesty, and now a member of the Legislature of the Territory of Orleans, who, being duly sworn on the Holy Bible, did depose and say, that in the year 1795, as well as he can remember, he exercised the functions of adjutant-major in the regiment of Louisiana, and was commissioned by the Governor, the Baron de Carondelet, to conduct the trial of one Pepillo, who was accused of having been one of the authors of the death of Mr. Henry Owens, (*who had been assassinated on the Ohio, in the American territory,*) and of the robbery of a sum of money, of which this Mr. Owens was the bearer to General Wilkinson, and which had been delivered to him by the Spanish Government. And he has further declared, that it was public and well known among the officers under the Spanish Government that General Wilkinson was a pensioner of the Spanish Government, and that the major part of the people in office believed that there was no reliance to be placed on the promises which the General made to the Government, because they could not persuade themselves that his influence could induce the people of the Western States to separate from the American Confederation.

(Signed)

D. BOULIGNY.

Sworn to and affirmed before me,

F. DUTILLET, Justice of the Peace."

Brown first learn in March, 1787, the "news of Jay's project," of which he had information in the December previous; and made him ignorant until May, 1787, of the very resolutions the passage of which he alleged John Brown had procured in the preceding November. But, before these achievements, he had, in the Centennial Address, proved himself far greater than Archimedes. For, from the amazing fertility of the resources of his own creative genius he produced the fulcrum, and in a quill plucked from a goose he found the lever, with which he moved to the "north-west side" of the placid and beautiful Ohio, the old Spanish Province of Louisiana, from its secure foundations west of the turbid and swift-flowing Mississippi! To a genius so wonderful the vindication of John Brown and Hary Innes, which others found impossible and abandoned in disgust, was but the pleasant pastime of a summer day.



## CHAPTER XX.

COLONEL BROWN'S STATEMENT THAT THERE WAS NO COMMUNICATION BETWEEN WILKINSON AND SEBASTIAN DISPROVED—THE FORMER IMPORTUNES FOR PAY IN 1790—WILKINSON FORWARDS THE LETTER TO MIRO, WHO SENDS IT TO MADRID, WITH A RECOMMENDATION THAT BOTH SHOULD BE PENSIONED—SEBASTIAN DETECTED AND FORCED TO RESIGN—CRITICAL STATE OF AFFAIRS IN AMERICA—THE EFFORTS OF WASHINGTON TO SECURE THE NAVIGATION OF THE MISSISSIPPI IMPEDED BY THESE INTRIGUES WITH SPAIN—CARONDELET RENEWS THE OLD INTRIGUES—THOMAS POWER THE AGENT—THE PROPOSITION IMPLYING SEPARATION FROM THE UNITED STATES MADE BY CARONDELET IN 1795—SEBASTIAN, CARRYING A LETTER FROM NICHOLAS, INNES AND MURRAY, GOES TO SEE WHAT IT MEANS—FOR THAT, SEBASTIAN PRETENDS, HE IS PENSIONED—CARONDELET SENDS MONEY TO WILKINSON—POWER'S VISITS TO WILKINSON AND RECEIVES DETAILS FROM HIM TO BE COMMUNICATED TO CARONDELET—THE SPANIARDS ANXIOUS NOT TO CARRY OUT THE TREATY—RENEWED ATTEMPT TO SEPARATE THE WEST FROM THE UNITED STATES—CARONDELET'S PROPOSITION OF 1797—IT DIRECTLY EXPRESSES WHAT WAS PLAINLY IMPLIED IN THAT OF 1795—THE BRIBES OFFERED—INNES CONSULTS WITH NICHOLAS, WHO REJECTS THE PROPOSITION—THEIR MILD ANSWER TO CARONDELET—WILKINSON DEEMS IT TOO LATE—SPAIN HAD RUINED EVERY THING BY GIVING THE NAVIGATION OF THE MISSISSIPPI IN THE TREATY.

In the Centennial Address, page 35, it is asserted, as shown by the evidence, that "there were not more than two conspirators—Wilkinson and Sebastian;" and that "It does not seem that *they communicated*." The orator, as he stated, had consulted and liberally used *Gayarre* in the preparation of that Address. In that History, nevertheless, is printed Sebastian's own letter to Wilkinson, under date of January 5th, 1790, in which the former thus wrote: \*

"As my attention to this affair takes up the greater portion of my time, and prevents me from following any other pursuit, I certainly hope to obtain from the Spanish Government at least some indemnification, *if not a generous reward for my services*. On principle, I am as much attached to the interests of Louisiana as any one of the subjects of his

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\* *Gayarre*, pages 275-6.

Catholic Majesty. But you know that my circumstances do not permit me to *engage in his service* and to abandon every other occupation, *without the prospect of remuneration.*"

This letter was immediately forwarded by Wilkinson to Miro, to whom he wrote on the 26th of January, 1790, referring to the convention to meet in June of that year.

"I will pay strict attention to its proceedings, and I will present myself to that assembly, with the intention of doing all that may be in my power, to promote the interest of our cause, *in which I shall be warmly assisted by our good friend, Sebastian, who is now my principal aid*, because, *although Harry Innes is also our friend*, yet the office he holds renders it improper for him to work openly." \*

Miro forwarded the letters of Wilkinson and of Sebastian to Madrid, with the expression of the opinion that "said brigadier-general *ought to be* RETAINED in the service of his majesty, *with an annual pension of two thousand dollars*, which I have already proposed in my confidential dispatch No. 46," and with the recommendation that a pension should also be granted to Sebastian.† Colonel Brown could scarcely have failed to read those letters in Gayarre. His statement that "it does not seem that they communicated" is about as true as his assertion that the evidence shows that they were the only conspirators; and neither requires any comment.

When Wilkinson's letter of January 26, 1790, was written, a marked change had taken place in the temper of the people of the district towards the Federal Government, owing to the confidence and hope inspired by the wise and firm administration of Washington. The increased strength of the government of the new Union, under a constitution which gave its legislature the power to enact, and to its judiciary and executive the means to enforce laws, made the intriguers draw back, and aroused in them a sense of personal danger to be incurred in the pursuit of those projects. Brown, the most timid and cautious of all, had, probably, by this time detached him-

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\* Gayarre, page 279.

† *Ibid*, page 286.

self from the Spanish interest. Wilkinson in this letter wrote:

"At present all our politicians seem to have fallen asleep. Buoyed up by the privilege of trade which has been granted to them on the Mississippi, the people think of nothing else than cultivating their lands and increasing their plantations. In such circumstances it is impossible that I should, with any chance of success press upon them the important question which I had proposed to myself on my arrival here.

"I am justified in saying that Congress strongly suspects my connection with you, and that it spies my movements in this section of the country. Consequently an avowed intention on my part to induce these people here to separate from the Union, before the majority of them show a disposition to support me, would endanger my personal security, and would deprive me of the opportunity of serving you in these parts. My situation is mortally painful, because whilst I abhor all duplicity, I am obliged to dissemble. This makes me extremely desirous of resorting to some contrivance that will put me in a position in which I flatter myself to be able to profess myself publicly the vassal of his Catholic Majesty, and therefore to claim his protection, in whatever public or private measures I may devise to promote the interest of the Crown."

The "privilege of trade" to which the conspirator referred was one permitting the navigation of the Mississippi below our boundaries and trade with Louisiana to all, on payment of an *ad valorem* duty of fifteen per cent. Against this, as well as against every relaxation of the most rigid occlusion of the Mississippi, to all save himself and confederates, the correspondence shows that Wilkinson, from the beginning, vehemently protested, as a surrendering of the lever by which alone the Spaniards might force the separation of the west from the United States. And, beyond peradventure, the effect of his arguments, and of the various movements of the men whom he led, was the most serious embarrassment experienced by Washington in the negotiations he immediately inaugurated for securing to the west the rights so invaluable to her people. Those movements, and the hopes engendered by Wilkinson's arguments, caused the Spaniards to delay for years their accession to the treaty which was concluded in 1795; and, but for the pressure and harassments entailed by the revolution in France, would have altogether defeated all of Washington's exertions in behalf of the people of the

west, which were unremitting and most active at the very time he was most fiercely assailed by demagogues; some of whom desired an alliance with Spain, while others sought to involve us in war in behalf of, and to make America subservient to, the Government of the Guillotine. It was in the same letter from which the above is quoted, that Wilkinson wrote of the appointment of Innes by Washington, construing it as one intended to secure the fidelity of his friend, in whose behalf he asserted a preference for a pension from New Orleans over one from New York. His own appointment he doubtless attributed to the same motive;—the construction would have been the proper one.

That Sebastian was pensioned by Spain was incontestibly established. The clear light cast upon the subject by the archives of that power; his demand, so early as 1790, for compensation for his efforts to separate Kentucky from the Union; the recommendation of Miro then made that this request should be granted and Sebastian be regularly employed in the service of Spain,—create a presumption that can not be overcome by the statement of so utterly false a man to the contrary, that Miro's advice was heeded, and that the pension commenced when that advice was given in 1790. His actions then indicated to many that he was not only a secret agent of Spain, but that he was the dishonorable stipendiary of that power. As he was appointed a judge of the court of appeals by Shelby, in 1792, what was apparent to others could not have been credited by the rough fighting executive, who had flanked Cornstalk at Crooked Creek, and laid Ferguson low at King's Mountain. But, whatever the time when that pension commenced, and whatever the service for which it was paid, Sebastian, while a judge of the court of appeals, continued to receive it, until the fact was publicly exposed in 1806, when, pending an investigation by the legislature which looked to his impeachment, and in order to stop the inquiry, he resigned the office which he had disgraced.

While never entirely abandoned, either from the expec-

tation that he would soon be recalled to Spain, or from a doubt of their success, the intrigues of Miro to dismember the Union, manifestly slackened in 1791. The communication with Wilkinson, who was occupied on the part of the Spaniards in various schemes of colonizing Louisiana, was steadily maintained. The commercial ventures of the latter had met with their final shipwreck, and in the fall of the year named, he was appointed to a Lieutenant Colonelcy in the army of the United States. On the 30th of December, Miro, after a successful and benign administration, which had won the hearts of the Louisianians, and completely reconciled them to the Spanish domination, was succeeded as governor by the Baron de Carondelet. He immediately sailed for Spain, where his brilliant military career won for him the baton of a *Maréchal de Campo*, or Lieutenant General. His successor was a native of Flanders, but by acknowledged ability, activity and zeal, had risen to the rank of a Colonel in the royal army. His attention was at first occupied with the domestic complications of his province, arising from the turbulence of Bowles and others, but he soon resumed the communication with Wilkinson which had been interrupted by the departure of Miro.

In the meantime the war of factions in the United States, the hostilities with the Indians, and foreign complications, rendered the condition of the country so extremely critical, that Jefferson and Hamilton, who agreed in nothing else, were convinced that the firm hand of Washington alone could guide the ship of state and save it from wreck. Not only were the measures of his administration bitterly assailed, and his wise efforts to avoid entanglement with the wars by which Europe was convulsed, denounced as a manifestation of his purpose to establish a monarchy in America, but he was personally attacked with the coarsest vituperation, or, to use his own language, "in such exaggerated and indecent terms, as could scarcely be applied to a Nero, to a notorious defaulter or even to a common pick-pocket." These assaults were made under the immediate patronage and auspices of the "Democratic societies"

which were organized in different parts of the United States, and were modeled after the Jacobin Clubs of Paris, of which Robespierre was at once the type and the idol. While loudly clamoring against the government because the executive honestly maintained neutrality in the wars of Europe, these clubs denounced and every-where encouraged resistance to the taxes which were indispensable to provide the means for maintaining public credit and to carry on the ordinary operations of government. The agents of the revolutionary government of France were engaged in an effort to separate the people of the United States from their own government, to incite them to open revolt against that government, and, in defiance of the proclamations of the President, to organize an army within the territory of the United States, to make war upon the Spanish in Louisiana, and to reduce that province once more to the French dominion. In all the insulting defiance with which these emissaries treated the authority and government of the United States, they were openly encouraged and sustained by the Democratic societies. Finally an insurrection against the government broke out in Pennsylvania, to resist the excise tax, in such formidable dimensions that an army under the command of General Lee was embodied and sent to quell the armed force which had organized to overthrow the authority of law. While there was no outbreak in Kentucky, much was done to inflame the people to a similar movement. "Genet (the French minister) had speculated on the prejudices of the western people, and had sent, particularly to Kentucky and Tennessee, active, enthusiastic and intelligent agents, who, circulating among the hardy population and the remotest pioneers of the west, discoursed glibly on the innumerable advantages which would accrue to these people, *if they separated from the rest of the United States, if they helped to enfranchise Louisiana by an invasion, and if they formed with her an alliance under the protection of France*" [Gayarre.] George R. Clark was commissioned a General in the army of the French Republic and issued his proclamation calling for volunteers.

Carondelet at once organized the military forces of Louisiana for defense, fortified New Orleans and the other strong places on the Mississippi, and in all respects proved himself a man of sleepless vigilance and an executive of ability and energy. "Not trusting entirely to these means of defense, he had recourse to the politic arts of the diplomatist, and in order to appease the hostility of the Western people, he removed some of the restrictions which cramped their trade, granted again important privileges to some enterprising and influential men among them, and prepared himself to renew Miro's former scheme of winning over that restless and energetic population to the dominion of Spain. The firm and loyal interference of Washington prevented the attack which was threatened from the Ohio districts, checked the intrigues of Genet, and relieved the apprehensions of the Spanish authorities in Louisiana." In the meantime, Washington also sent James Innes to Kentucky to explain to Governor Shelby that, while the details of his negotiations had not been publicly divulged, yet the situation of Kentucky had engaged his attention from the moment of his inauguration, his resolute determination never to sacrifice nor abandon her interests, the constant efforts he had made to secure to her people the enjoyment of their right to navigate the Mississippi, and his confident expectation that a treaty recognizing that right would soon be concluded. The reader has seen how these movements in the West, and the hopes Spain builded thereon, was the constant obstacle that impeded the accomplishment of the President's persistent efforts.

As soon as the danger of an invasion had passed away, Carondelet began again "to throw impediments in the way of the western trade, which he had temporarily favored, and again imposed restrictions calculated to facilitate the operations of those agents whom he had sent to Kentucky to tempt the people into a separation from the United States and an alliance with Spain, by which the much desired outlet of the Mississippi could be secured to them." It has been seen that the times were highly auspicious for



the intrigues of Spain. The irritation in Kentucky and Tennessee against the Federal Government because it could not secure to them the navigation of the Mississippi, which Wilkinson had urged the Spaniards *never to concede*; the whisky insurrection in Pennsylvania; the war with the Indians, all of whom were engaged in open hostilities; the embarrassments of the negotiations with Great Britain, Spain and France; and then the assaults of the Democratic societies and their press, exciting the people against their own government and undermining their confidence in the illustrious patriot who was at its head, all combined to render the situation precarious.

The chief emissary chosen by Carondelet was Thomas Power, an Englishman by birth, but naturalized a Spanish subject,—a man at once intelligent, bold and cautious. As stated by Gayarre, he came to Kentucky “under the pretense of collecting materials for a natural history of that section of the country, but really to revive with *Wilkinson, Innes, Sebastian* and others, the plots which had been carried on under Miro’s administration.” Reports made by Power to Carondelet of the disposition towards the general government of a number of leading citizens of Kentucky, some of whom the latter knew to have formerly been engaged in a secret correspondence with Miro, induced in the Spanish governor the hope that he might now successfully renew the intrigues of his predecessor. Gayoso de Lemos, Governor of Natchez, was chosen for the delicate mission, and Power was dispatched in the fall of 1795 to make the necessary arrangements with Sebastian, Innes, and others. He carried with him a letter from Carondelet to Sebastian, which he delivered to the latter. Sebastian undertook to confer with Innes, William Murray and George Nicholas, to whom he was requested by Carondelet to communicate the contents of his letter, and Power proceeded to Cincinnati to deliver to General Wilkinson a letter from Sebastian. This letter apprised Wilkinson, who was then Brigadier-General of the American army, of the new efforts to carry out the old scheme in which both had been formerly engaged. According to

the sworn statement of Power, Wilkinson then made known to him "the whole plot, which was a *separation of the Western from the Eastern States*, such as was developed in Sebastian's trial." After a number of conferences with Wilkinson, in which the matter was discussed, Power returned to Red Banks, there met Sebastian, who had, in the meantime, consulted with Innes, Murray, and Nicholas, and had gone with their concurrence to meet Gayoso, in accordance with the request conveyed in the letter of Carondelet, and with him went to New Madrid, where Gayoso awaited them.

Beyond peradventure this was, as stated by the historians, Gayarre and Martin, by Clark and by Power, but a reopening of the plan of dismemberment which had been entered upon some years before by Miro and Wilkinson, and had been "discussed" between Gardoqui and John Brown. The grant of the navigation of the Mississippi was, as formerly, the inducement offered by Spain, and the dismemberment of the United States was the object Spain sought to effect. The terms of Carondelet's letter to Sebastian are known only so far as the alleged copy thereof in the handwriting of Sebastian reveal them. The letter is here published as it appears in the deposition of Innes before the committee which investigated Sebastian in 1806, viz :

NEW ORLEANS, *July 16, 1795.*

*Sir* :—The confidence reposed in you by my predecessor, Brigadier-general Miro, and your former correspondence with him, have induced me to make a communication to you, highly interesting to the country in which you live, and to Louisiana.

His majesty being willing to open the navigation of the Mississippi to the people of the Western country ; and being also desirous to establish certain regulations, reciprocally beneficial to the commerce of both countries, has ordered me to proceed on the business and to effect in a way the most satisfactory to the people of the Western country his benevolent design.

I have, therefore, made this communication to you, in expectation that you will *procure agents to be chosen and fully empowered by the people of your country to negotiate* with Colonel Gayoso on the subject, at New Madrid, whom I shall send there in October next, properly authorized for that purpose, with directions to continue at that place, or its vicinity, until the arrival of your agents.

I am, by information, well acquainted with the character of some of the most reputable inhabitants of Kentucky, particularly of Innes, Nicholas, and Murray, to whom, I wish you to communicate the purport of this address, and should you and these gentlemen, think the object of it as important as I do, you will doubtless accede, without hesitation, to the proposition I have made, of *sending a delegation of your countrymen, sufficiently authorized to treat on a subject which so deeply involves the interest of both our countries.*

I remain, with every esteem and regard, Sir, your most obedient, humble servant,

THE BARON OF CARONDELET.

The reader will not fail to note that no mention is made in this missive of the United States, nor is there any reference in it to the people of the western country as a component part of the Union. It clearly relates to them as a people of a country distinct and separate from any other—a people who had the power to *negotiate treaties*, which the Spaniard knew, as well as Innes and Sebastian knew it, that no state of the Union possessed. The letter did not invite those gentlemen to come to New Madrid to converse or confer with Gayoso in regard to the terms of concessions intended to be made to the people of the United States or of any part thereof; but to send persons *duly authorized and empowered by the people of the western country, as a distinct country, to negotiate a treaty* in which it was proposed to grant to the people of that country valuable privileges. A separation from the Union by the people to whom this grant was to have been made was plainly *implied* in every line of the communication. It was so understood by Carondelet and his agent, by Wilkinson and Sebastian, according to Power's testimony, and by the historians who had access to the facts. The reference by Carondelet to the correspondence that had "formerly" passed between Miro and Sebastian, and to the "confidence" the Spanish Intendant had reposed in the Kentucky judge, will remind the reader of the records published by Gayarre. If he was not the most forgetful of men this reference must have been pregnant with suggestion to Innes. The king who had so persistently refused to entertain any treaty with the United States which did not expressly abandon all claim to the right to navi-

gate the Mississippi by any part of their people, was yet willing to "open that navigation to the people of the western country!" "Therefore," instead of concluding a treaty with the United States, which the government had urged ever since independence had been obtained, and which Spain had most obstinately refused to consider, unless the right to that navigation was abandoned;—"therefore, I have made this communication *to you*," known to me, by your correspondence with Miro, to have been engaged with him in a plot to separate Kentucky from the Union, "in expectation that you will procure agents to be *chosen and fully empowered by the people of your country to negotiate* with Colonel Gayoso, at New Madrid!" To minds of ordinary sagacity it must have been apparent at once, that this proposition, secretly made to individuals, that *the people of the country in which they lived* should appoint agents to *treat and negotiate* with a foreign power, concerning the concession of privileges which that power had refused to grant to, or even to treat of with, the government to which they owed allegiance, must of necessity cover an ulterior, sinister and illicit design, which no citizen, much less state and Federal judges, could consider without gross impropriety. That Sebastian well knew what that design was is certain. To Innes, who, in 1787, had written to Governor Randolph that in a few years Kentucky would "Revolt from the Union," and who had struck those words out of the alleged copy of the letter containing them which he published in Littell;—to Innes, who knew from Wilkinson the engagements he had formed with Miro, and from John Brown's letters, if not from Brown's own lips, the nature of the proposition of Gardoqui, which had been frustated in the Danville convention, and yet made no mention of those engagements, nor of that proposition, nor of the memorial of Wilkinson, nor of Brown's speech, in his letter to Washington;—to Innes, it is scarcely possible that the letter of Carondelet to Sebastian did not suggest that its diplomatic phraseology covered a renewal of the old schemes of disunion.

In his testimony before the legislative committee, Judge Innes asserted that, while it was not deemed prudent to communicate the subject-matter of Carondelet's letter to the people, "yet, that it was advisable to know what was the object of the Spanish Government upon that important subject;"—which, certainly, was sufficiently obvious, not only from what had preceded the letter, but from the very terms of the letter itself. "To accomplish this object," he said, "it was thought advisable, that as the communication was made to Mr. Sebastian, he ought to meet Colonel Gayoso; and in consequence of this opinion, Mr. Sebastian descended the Ohio." Sebastian himself stated, in his deposition in the case of *Innes v. Marshall*, that he carried with him a "*written opinion*,"\* signed by Nicholas, Innes, Murray and himself, "relative to the situation of the two countries"—Louisiana and "*The Western country*"—"and the advantage that would result to both from amicable intercourse." Gayoso was disappointed at the absence of the others, which Sebastian explained: Innes could not leave his courts, and the absence of Nicholas, a lawyer in large practice, would excite too much attention; he had come authorized to act for all. According to his own account, as subsequently given to Governor Greenup, and as detailed by Innes in his testimony before the Committee of Investigation, he then proceeded to arrange with Gayoso the terms of the proposed concession by the King of Spain *to the people of the Western country*, of the right of navigating the Mississippi, which he and Innes alike represented to have been simply an act of magnanimous conciliation on the part of his Catholic Majesty, without the expectation of any return from them other than might spring from the cultivation of mutual good will between these people and those of the Spanish provinces! But why that good will might not just as well have been cultivated by making this concession in a treaty with the United States, instead of by

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\*Sebastian was asked to produce the original of this "*written opinion*," the terms of which would certainly have been interesting; but, of course, it was not accessible to the witness, and was never produced.

means of this alleged private arrangement, which, on its own face, was partial and invidious and exclusive of all the rest of their countrymen, never was and never can be satisfactorily explained. On his return, in 1796, Sebastian, according to the testimony of Innes, informed him that Gayoso proposed to reduce the duty required from 14 to 4 per cent; but to this he had objected, insisting that the concession being a gracious act of conciliation by the king, the navigation should be made absolutely free. Gayoso remaining fixed, Sebastian proceeded with him to New Orleans, to refer the matter to Carondelet, who supported the latter, but could not immediately attend to the definite arrangement of terms.

In his testimony before the Committee of Investigation, Judge Innes presented a paper which he said had been given to him by Sebastian as containing the concessions proposed by Gayoso, which was in Sebastian's handwriting. From this paper it appeared that the King of Spain "had been pleased to cede to the *people of the Western country, during his pleasure,*" certain privileges; among which were the use and enjoyment, "for the purpose of commerce, of the navigation of the river Mississippi; and all the posts and places thereon, under the Government of his Catholic Majesty, subject to the same regulations and restrictions, and no other, by which the commerce of the subjects of his Catholic Majesty is now governed." The importation of any articles into the Spanish territory which "were not the actual production of the said Western country, was absolutely prohibited;" which excluded all the rest of the United States from the benefit of this very peculiar treaty. It was never the intention of Spain to grant these privileges to the "Western country" so long as it continued to be a part of the United States. Separation therefrom was necessarily implied in every line of the letter of Carondelet and of the terms of the proposed concession. The reader will agree with Butler, that, even in the light in which these men claimed that it should be regarded, "this proposal, if it had been consummated, would have amounted to superseding the regular

operations of the General Government in the Western commerce; and would have granted exclusive commercial favors to the parties in this agreement, inconsistent with the equal constitutional rights of the citizens of a common country. It would, moreover, *have been the introduction of a foreign influence, dangerous to the liberty and peace of the nation.*"

In a day or two, however, news of the treaty of friendship, limits and navigation between the United States and Spain, of the prospect of which Washington had sent information by James Innes in 1794, and which had been concluded by John Jay on the part of the United States the preceding August, reached New Orleans;—which superseded this very nice and extremely innocent private and individual negotiation. Urging that the treaty might never be carried into effect, Sebastian insisted that Carondelet should sign the terms of the concessions to the "people of the Western country." This Carondelet refused to do, but informed Sebastian, as the latter claimed, that he had been instructed to pay to the person who should come on that business, the sum of \$2,000, and that an annual pension of that amount would be paid to him thereafter. For making this journey; receiving this voluntary, gratuitous, magnanimous, and, as they represented it, most extraordinary and incredible concession from Spain to a portion of the people of the United States, which that power had, ever since 1783, haughtily denied to the whole; and for drawing up the details of this grant, by which, according to their representations, Spain gave all and expected to receive nothing, the detected pensioner alleged, and his friend, the Federal judge, professed to believe, that the Court of Madrid, pressed with debt and with a commerce devastated by ruinous war, had paid Sebastian a pension of \$2,000 per annum since 1795, amounting in the aggregate to \$22,000!

Gayoso and Sebastian were accompanied from New Madrid to New Orleans by Thomas Power, who went for the purpose of receiving from Carondelet a round sum of money for Wilkinson, which the latter awaited in impa-



tient expectation. But it had already been sent to Vincente Folch for delivery to Portell, the commandant at New Madrid, who was directed to hold it subject to the orders of Wilkinson. Power went with Sebastian by sea to New York, and thence, after again seeing Wilkinson, back again to New Madrid, where he had great difficulty in inducing Portell to deliver to him the money designed for Wilkinson without a written order from the latter. The reasons why an American general involved in a treasonable conspiracy, should refuse to give such an order were made plain to Portell, who finally delivered the money to Power. The amount was \$9,640, which was packed in sugar barrels;—for, as Power said, “to take it openly would be too scandalous a thing.” This was on the 27th of June, 1796. Proceeding up the river on his way to Cincinnati, Power was stopped at Louisville. He then turned the money over to Philip Nolan, Wilkinson’s protégé and confidential agent, by whom it was conveyed to Frankfort, and thence to Wilkinson, less \$640, detained by Power for expenses. Power again visited Wilkinson, who gave him instructions for Gayoso, he referring the latter in a letter dated September 22, 1796, to the verbal communications which would be made to him by Power. These instructions Power reduced to writing. They embraced the details which Wilkinson advised as necessary to put the plot into successful operation. The mouth of the Ohio must be fortified so as to delay an army for a year. Fort St. Fernando must be held and strengthened. A bank must be established in Kentucky. George Rogers Clark must be bought. A number of leading men in Kentucky must be purchased, and the press must be subsidized. Other details were given to Power in the handwriting of Philip Nolan.

The treaty which had been concluded with Spain fixed the southern boundary of the United States at 31° north latitude, and that the Spanish posts within those limits should be surrendered within six months; that the navigation of the Mississippi from its source to its mouth should be free to the people of the United States; and

the use of the port of New Orleans as a place of deposit and storage was made free from duty to our people. But, though the restrictions upon the river trade were suspended after the ratification of this treaty, Spain never intended, if it could in any way be avoided, to surrender any portion of the territory of which she held possession. The king had yielded a reluctant consent to the treaty under the compulsion of embarrassments in both Europe and America. He had been on the point of war with Great Britain; an invasion of Upper Louisiana from Canada was threatened, and it was to oppose the territory of the United States as a friendly neutral as a barrier against the apprehended attack that induced him to give an apparent consent. The moment the exigency had passed means were sought by which the territory could be held. In the meantime Carondelet, viewing the treaty in its proper light, as a mere act of finesse, until pressing embarrassments should have been surmounted, had been active in endeavors to charm success to his favorite plan of separating the West from the United States. The time had come when the ports must soon be surrendered unless something could be effected. Power, on his return to the Spanish dominions, again made a favorable report as to the disposition of leading men in Kentucky towards these schemes of disunion. He was, therefore, commissioned to make to Sebastian, Innes, Nicholas and Murray in 1797, a proposition in which all that was necessarily implied in that of 1795, according to the copies of the letters of Carondelet and of the terms submitted in the handwriting of Sebastian, was unequivocally expressed. The sum of \$100,000 was to be placed at the disposition of these gentlemen as a reward for their own services, and with which to bribe others. An additional \$100,000 was to be devoted to arming and sustaining troops who were to have seized upon Fort Massac. Assurance was given that the treaty with the United States would never be executed by Spain. A communication embodying the details of the proposition was delivered by Power to Sebastian, who insisted upon the incorporation of a provision stipulating, that, in

case of the failure of the plan, those persons who might lose their offices by reasons of their efforts to promote it, should be indemnified by the Spanish king. The pious Sebastian undertook to make known the proposition to his friends, Innes and Nicholas; but Murray had so completely lost his respect by drunkenness and infidelity that he positively refused to have aught to do with him. He accordingly saw Innes, who saw Nicholas, who decided that the dishonorable overture "ought to be rejected." A paper to this purport was drawn by Nicholas, a copy of which was signed by Innes and himself, and was delivered by the former to Sebastian. The following is a copy of the original amiable document, as it was communicated by Innes to the legislative committee, in the handwriting of Nicholas, unsigned and without date, viz :

*Sir* :—We have seen the communication made by you to Mr. Sebastian. In answer thereto we declare unequivocally that we will not be concerned, either directly or indirectly, in any attempt that may be made to separate the western country from the United States. That whatever part we may, at any time, be induced to take in the politics of our country, that her welfare will be our only inducement, and that we will never receive any pecuniary or other reward for any personal exertions made by us to promote that welfare.

The free navigation of the Mississippi must always be the favorite object of the inhabitants of the western country; they can not be contented without it, and will not be deprived of it longer than necessity shall compel them to submit to its being withheld from them.

We flatter ourselves that every thing respecting this important business will be set right by the governments of the two nations; but if this should not be the case, it appears to us that it must be the policy of Spain to encourage by every possible means the free intercourse with the inhabitants of the western country, as this will be the most efficient means to conciliate their good will, and to obtain, without hazard and at reduced prices, those supplies which are indispensably necessary to the Spanish government and its subjects.

If Nicholas felt the virtuous indignation at this nefarious proposition which was attributed to him by his friends, it must be conceded that he had an admirable command of himself;—for there is not a trace thereof in this paper. The reader will be forced to agree with Butler that, "These offers were entertained too gravely, and were rejected with too much *tameness* for the honor of Kentucky

*patriotism.*” But at least one of the signers of that paper had been far too deeply implicated in previous schemes to afford to exhibit, even if he felt, an honest wrath at their renewal.

After delivering the communication to Sebastian, Power proceeded to Detroit, where he had an interview with Wilkinson, whom he informed of the proposals of Carondelet. But the American General knew that he was watched on every side, and that he was surrounded by men who were true to their country. He received Power coldly, exclaiming bitterly: “We are both lost without being able to derive any advantage from your journey.” He said that the scheme was now “a chimerical project; that the inhabitants of the western states, having obtained by treaty all they wanted, would not wish to form any other political or commercial alliances; and that they had no motive for separating themselves from the other states of the Union, even if France and Spain should make them the most advantageous offers; that the fermentations which had existed four years back had been appeased.” He insisted that there was no course now left the Spanish except to carry out the provisions of the treaty, by which they had deprived themselves of their power over the western people. And, finally, that in order to avert suspicion, Power must permit himself to be conducted under guard to Fort Massac. This was done. At New Madrid, Power was met by Sebastian, who delivered to him the reply of Nicholas and Innes. Sebastian did not agree with Wilkinson, but encouraged Power still to hope for ultimate success. He, however, made an unfavorable report to Carondelet, and thus the last overture of Spain came to a fruitless end.

According to their own admissions before the committee of investigation, the fact that Sebastian had, for ten years at least, received an annual pension from Spain, was well known to John Brown and Judge Innes as early as August, 1806. They encouraged Littell to write, and he did write, numerous articles for the *Palladium*, in defense of Sebastian, as well as of themselves, after they were in

possession of this positive knowledge, which they concealed from their champion. In October, when they had known the disgraceful truth for months, they solicited Littell to write, and paid him for writing,\* and Wm. Hunter for publishing, the "Narrative of Political Transactions," which was as much of a defense of Sebastian, whom they knew to have been a pensioner of Spain for years, and of Wilkinson, as it was of John Brown, Hary Innes or Caleb Wallace;—they were all in the same boat together. Yet they still kept the fact of which they had knowledge a secret from both writer and publisher. Their intimacy was maintained with the pensioner, who was the most violent of all in his denunciations of the publications in the *Western World* as lies. They scrupulously withheld from their able and zealous advocate all knowledge of the intrigues with Thomas Power in 1795–7, and of Sebastian's pension, as Littell swore, "*until in the evening after the House of Representatives had acceded to the proposition to inquire into the conduct of Sebastian.*" He (Innes,) then gave this deponent information that Sebastian could be proved to be a Spanish pensioner." Hunter testified to the same effect.

The grief of the reader in learning from the "Political Beginnings," that Humphrey Marshall was "violent, irreligious and profane," will be mollified by the assurance given in the same work that Hary Innes "was a sincerely religious man." It might with equal truth have been stated that Caleb Wallace, who had abandoned the Presbyterian pulpit to go into politics, kept up his church relations, and practiced his devotions with the utmost regularity. Sebastian also, who had cast off the gown of the Episcopal ministry in his pursuit of the "flesh pots of Egypt," continued, it is believed, the exercise of all religious observances, and,

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\* Marshall, Vol. 2, page 399, says that Littell was paid \$50 each by Brown, Wallace and Innes, and cheated of the other \$50 by Sebastian. No mention is made in the depositions read by the writer of the \$50 due by Sebastian. But there is a mention of a "residue" of \$50 which was paid by Innes in the name of Thomas Todd. The inference is that when Sebastian failed to pay, the deficit was made up by Todd.

in the depth of his piety, deemed a treasonable overture entirely too good to be communicated to an infidel. While John Brown, who had absorbed faith as he sat under the very droppings of the sanctuary,\* it will be cheerfully conceded was the most devout of the four. On the other hand, John Wood, one of the editors of the *Western World*, whom they afterwards bought, was a reprobate; and young Joseph M. Street, whom they could neither bribe nor intimidate, and the attempt to assassinate whom proved a failure, was a sinner. It is distressing to think that, like Gavin Hamilton, the latter "drank, and swore, and played at cards." It may be that the wickedness of the editors of the *Western World*, and the contemplation of their own saintliness, justified in the eyes of the four Christian jurists and statesmen the several little stratagems they devised, and paid Littell for introducing into his "Narrative," in order to obtain the advantage of the wicked editors in the argument. The contrast of their characters made innocent those little mutilations by Innes of his own letter to Randolph! The same process of reasoning made laudable John Brown's suppression of his Muter letter, his assertion that it was identical with the "sliding letter," and his claim that the acceptance of Gardoqui's proposition would have been consistent with the alleged purpose to make some future application for the admission of Kentucky into the new Union! While the suppression of the resolution of Wallace and Wilkinson in the July convention, and the declaration that such a "*motion never was made*," in order to prove the unhappy editors to be liars, became as praiseworthy as the spoiling of the Egyptians by the Israelites! The scene of those four distinguished gentlemen seated around a table, with a prayer-book in the center, planning the screen for themselves and the discomfiture of the editors, would be a subject worthy of the brush of a Hogarth.

And, if the traditions that have come down concerning

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\* He was the son of Rev. John Brown, a Presbyterian minister of respectable abilities and reputable life, who was for nearly fifty years the pastor of the Timber Ridge Church, in Rockbridge county, Virginia.

him be true, the able William Littell was also a publican. Perhaps that fact made legitimate the supplying him with false copies and false information, as well as the concealment from him of the intrigues of 1795-7, and their knowledge of Sebastian's pension! Littell, however, seems to have taken a different view of his treatment by the men whom he defended, and to whose confidence he was certainly entitled. After detailing in his deposition in the case of *Innes v. Marshall*, that he had undertaken the defense of all the parties in good faith, believing them to be innocent and persecuted; and the information that was furnished him in the Appendix prepared by Innes; in reply to a question by Marshall as to the name of the author of an article in the *Palladium*, in 1807, assailing Marshall, to which that of Marshall upon which the suit was brought was a reply,—Littell answered: That he did not know what article was referred to, nor who wrote it, "*for as soon as Sebastian was detected, this deponent directed his attention to other objects. He never afterwards wrote any thing against Wood, Street, or Marshall, or any other relative to the Spanish Conspiracy.*" He knew that the contest was still carried on with the 'Western World,' but he did not know or care how or by whom; he felt no interest in the contest, read but few of the publications, and had no intercourse with their authors." Which was a decorous way of expressing his sense of the ill-usage involved in the deceits practiced upon himself; his disgust at having been made the instrument for the propagation of, and the palming of fraud upon the public; of his own conviction that the parties who had thus equivocated and concealed from him the truth had been equally guilty with Sebastian of intrigue; and that, feeling himself, miserable sinner as he was, unfit longer to associate with these—the Lord's saints—he had then and there washed his hands of the confederates and of all their concerns.

Before the meeting of the Legislature in November, 1806, the charge had been published in the *Western World*, by Humphrey Marshall, that Sebastian had been for years a stipendiary of Spain. He also drew up an address



to the Legislature reciting the fact that Sebastian was a Spanish pensioner, and praying an inquiry. A number of copies of this address were printed, some of which were taken to Woodford, were numerously signed by independent farmers of that county, were taken into the possession of William Blackburn, the Representative, and by him the facts were made known to other members. By the 22d of the month the movement had gathered such strength that a resolution was offered by Samuel McKee, the member from Garrard, that a committee be appointed to institute the desired inquiry. A substitute therefor was offered by John Pope and was adopted. If the newspaper statements of the day are to be credited, Sebastian protested his innocence and requested that the investigation be delayed, to give him an opportunity to procure evidence for its vindication. It is certain, that a vigorous effort was made to defeat the resolution and prevent inquiry, under the pretense of giving the Judge time to prepare. But Blackburn presented two addresses and petitions from his constituents, which made the charges specified in the resolution, and by his determined expressions the resolution for the investigation was carried. Witnesses were sent for, and attended. The receipt of the pension by Sebastian, then Judge of the Court of Appeals, was absolutely proven by the testimony of Thomas Bullitt, of Charles Wilkins and James T. Martin, given before the committee on the 27th day of November, 1806, and by Sebastian's own drafts for the pension and letter relating thereto, which were produced. In the afternoon of that day, and after the facts had been established by this evidence, and not until then, Sebastian handed his resignation to Governor Greenup, by whom it was accepted.

In his letter of resignation the venal Judge admitted the receipt of the pension. He claimed, however, that it was granted and had been paid for the services he had rendered in 1795, the nature of which has been stated. There have not been wanting writers who, accepting Sebastian's representations as truthful and candid, contend

that his conduct was not even reprehensible. The same writers compliment him on the alleged manliness with which he avowed all that he had done. Yet to the unbiased reader, who has read his importunity in 1790, it will be apparent that Sebastian *confessed only the receipt of the pension*, which could no longer be denied; that his allegations as to the time that pension commenced and as to the service for which it was paid, were inventions to exculpate himself and screen his friends. His corruption and the turpitude which had resulted in the final exposure of his disgrace, both had their origin in 1788, in his collusion in the nefarious schemes of James Wilkinson and of John Brown.\*

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\* Benjamin Sebastian was not a native of any of the colonies. He was educated for, and for a time officiated as, an Episcopal minister. Then became a lawyer, and early drifted to Kentucky. Unlike Wilkinson, he had never worn the American uniform. Unlike Brown, Innes and Wallace, in 1788 he held no official position, and betrayed no trust by engaging in the schemes which then commenced. It must be borne in mind that his communications with the Spaniards at least began when he was a private citizen. Had it not been for his complicity in the schemes of Wilkinson and Brown in 1788, he might never have been corrupted. He was the only one of the conspirators who expiated his offense, and thus was the only one entitled to sympathy. He bore his punishment uncomplainingly, accepted his position as "scapegoat," and never "peached upon his pals." They, on the other hand, hated him because of his unwariness.

## CHAPTER XXI.

INNES' EFFORT TO STOP THE INVESTIGATION OF THE CHARGE AGAINST SEBASTIAN—HIS FEAR THAT HIS FRIEND HAD BEEN INDISCREET—INNES GOES BEFORE THE COMMITTEE—DETAILS THE OVERTURE OF 1795—QUEER ACCOUNT OF THE MANNER IN WHICH HIS NAME BECAME KNOWN TO THE SPANIARDS—SAYS NOTHING OF THE OVERTURE OF 1797—COMES BACK AND TELLS OF THAT ALSO—DOUBTS WHETHER HE REJECTED THE OVERTURE WHEN MADE KNOWN TO HIM BY SEBASTIAN, OR RESERVED HIS DECISION UNTIL NICHOLAS HAD BEEN CONSULTED—ALLOWED TO PUT HIS TESTIMONY INTO THE FORM OF A DEPOSITION—VARIANCE BETWEEN THE ORAL AND THE WRITTEN EVIDENCE—REASON ASSIGNED BY INNES FOR NOT REVEALING THE OVERTURE TO THE FEDERAL AUTHORITIES—HE FEARED JOHN ADAMS MIGHT THINK HE WAS COURTING FAVOR—AND DID NOT WANT THE ARMY SENT TO KENTUCKY—THE REPORT OF THE COMMITTEE.

The effort to defeat the investigation of the charges against Sebastian, by postponing it on the pretense of affording him time for his defense, and his resignation after his guilt had been proven, have been stated. The next rallying point was the attempt that was made to prevent the exposure of others, by dissuading the committee from pursuing their investigation and by representing that the sole object of their appointment had been attained in the resignation of Sebastian. The person most interested in maintaining this view was Judge Innes.\*

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\* Among the members of the legislature constituting the committee was Henry Davidge, afterwards judge of the circuit court of the Shelby district. He was made a witness in the suit of *Innes v. Marshall*, and, on the 10th of June, 1812, gave his deposition in that case. He testified, that on the evening of the first day of the investigation, 27th of November, 1806, and after the guilt of Sebastian had been proven as already stated, he went to dine with Governor Greenup, whom he found in the public room in conversation with Sebastian. "The judge, upon my entering the room, rose up apparently in haste, looked about for his hat or stick, and immediately disappeared." The governor then informed the witness that Sebastian had resigned. The bell for the committee to meet again rang, when Davidge proposed to go; but Greenup told him

Nor did he scruple to exert himself to prevail upon members of the committee to desist from their inquiry. And that he had excellent reason for his concern and anxiety can not be disputed. Whether he went voluntarily before the committee the next day, or was summoned, does not appear from the record.

His knowledge of the payment of the pension to Sebastian, since the preceding August, is ascertained from his own deposition. The information, he alleged, was then given to him by Charles Wilkins, who gave him a copy of a letter from Sebastian to John A. Seitz, deceased, of Natchez, which disclosed the truth. When Judge Innes thus had the proof laid before him in Sebastian's own handwriting of the turpitude of the appellate judge, he "observed," as stated by Wilkins, "that he feared Judge Sebastian had acted *indiscreetly*;"—but whether this *indiscretion* consisted in receiving the pension, or in the careless way with which he had exposed his guilty secret, the evidence of Wilkins did not indicate. In October, thereafter, Sebastian admitted the fact to Innes, and made the same

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not to go; that he intended to go up and certify Sebastian's resignation, and he supposed the committee would proceed no further, but if they did, he would let Davidge know. Hearing that the committee was in session, Davidge started to go to their place of meeting, but on his way was informed that the committee had risen to meet again next morning, and had determined to proceed with the inquiry notwithstanding the judge had resigned. Upon returning to the governor's house he found Innes there, who "addressed himself to this deponent and asked what the committee had done or were about to do." Upon being informed of the purpose of the committee, "the plaintiff wished to be informed what was the object of the committee in proceeding further? The object of the investigation, he said, was to put the judge out of office, nothing further ought or could be done with him." Davidge upheld the action of the committee, who, he thought, "ought not to let the judge get off in that way." "The plaintiff appeared much concerned, and asked the deponent if he would say so as a lawyer? This deponent, with some degree of earnestness, replied that he would say so both as a lawyer and as a man." "And this deponent seeing the plaintiff so much concerned about the committee being determined to proceed in the examination, declined to say any thing further. Yet this deponent was surprised at the manner of the plaintiff's urging the impropriety of the committee's determination to proceed with the investigation."

claim then in regard to the matter that he subsequently made in his letter of resignation. After thus testifying, Innes proceeded to detail the circumstances of the overture of 1795, as they have already been stated and attributed to him in the preceding chapter. His testimony was given orally.

During this examination an incident occurred which furnished amusement to some members of the committee, but which harassed the judge no little, and was much dwelt upon in the depositions subsequently taken in the litigation with Marshall. He was asked how his name came to be known to the Spanish authorities of Louisiana as one with whom they could communicate upon such a matter. It was proven by the testimony of Judge George M. Bibb and Colonel John Allen,\* in the case of *Innes v. Marshall*, with which the less distinct recollections of Judge McKee and others corresponded, that Innes replied, that the way in which his name had become known to the Spanish authorities was, that they had seen his name written in a copy of Sterne's "*Sentimental Journey*," which General Wilkinson had carried with him to New Orleans, in 1787. The distressed jurist would have had the compassionate committee to believe, that *this* constituted the sole acquaintance with his name and character upon which Carondelet had proceeded to select him, a Federal Judge, as one of four men in all the West with whom to secretly confer upon a subject of this nature! Ignorant, as the members of the committee necessarily were, of the correspondence between Wilkinson and Miro, there was not one of them probably so simple as to have given the slightest credence to a claim so supremely absurd. The reader, who knows from the contents of that correspondence in what manner the name of Hary Innes was made familiar to the Spaniards, and the circumstances under

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\* This gentleman must not be confounded with Judge John Allen, of Bourbon, whose testimony concerning the conventions of 1788 has previously appeared. He was a much younger man, and the two were in no way related. The Colonel Allen above referred to was killed at the Raisin.

which it was communicated to Miro by Wilkinson, will have a just appreciation of the candor which inspired the answer, as well as a clear understanding of the good reasons Carondelet had for his confidence that Innes was open to approach.

The testimony of the witnesses in the case referred to at this point varied as to whether Innes, after giving his version of these transactions of 1795, intimated that he was in possession of other information which might not be regarded as relevant to the subject under investigation, but which he was ready to communicate, and after waiting some little time, and no question being asked, left the room; or, whether he left without indicating that he knew any thing more. The statement of Judge Robert Trimble being the most direct and positive in behalf of Innes on this point it is here quoted:

“Mr. Innes then observed that he had detailed to the committee every thing he knew on the subject of the pension, or which was immediately connected with the subject of inquiry before the committee; but that he had some knowledge of other transactions or facts not immediately connected therewith. At the time of making the preceding observation, Mr. Innes pulled a small bundle of papers out of his coat pocket and held them in his hand for some time. No further interrogatory was then put to him by the committee, and he put the bundle of papers again into his pocket and withdrew from before the committee, without making any disclosure of the overtures made through Sebastian by Thomas Power.”

With this statement of Trimble, those of Colonel Allen, Judge Bibb, and others widely differed. Bibb stated that Innes retired of his own accord without disclosing the overtures of Power in 1797. Allen, that “Mr. Innes gave evidence and retired. *I thought he was done.*” Afterwards he met Innes in the street; Innes stated “the nature of his tale as to Power,” and asked Allen “whether it was matter which should be given in evidence in the inquiry committee.” Allen thought it should be detailed, but, being one of the committee, referred him to Henry Clay, to whom Innes shortly after mentioned the matter in Allen’s presence. Both then expressed the opinion that the facts should be detailed. At Innes’ request, Allen suggested to the committee the recall of Innes, and Innes

came back and gave his evidence as to the overture of Power through Sebastian in 1797. In the meantime, however, Bibb had seen Innes go into the house of John Brown. Judge McKee testified that "Hary Innes was examined before the said committee, and this deponent believes on oath; and after stating several facts and circumstances to the committee, he retired therefrom without stating that he had further testimony to deliver."

Henry Davidge deposed, that when Innes concluded his testimony concerning the visit of Sebastian to New Orleans in 1795, he, the witness, "supposed the plaintiff had disclosed all the news relative to the subject then before the committee;" and that nothing had then been said by Innes about the proposition of Power at a later date. All agree, however, that after other witnesses had, in the meantime, been examined, but differing as to the length of time that had elapsed, Innes again came before the committee, in a greatly disturbed, excited and agitated condition, and said there was something more connected with the subject before the committee to be related. Seeing Wood, one of the publishers of the *Western World*, present and taking notes, Innes objected and requested the committee to interfere.\* Innes then testified concerning the overture of 1797, as appears in preceding pages. The proposition then made was but a renewal in detail of the old scheme which had been agreed on between Miro and Wilkinson, which had been "discussed" between Gardoqui and John Brown, which the latter had agreed to "aid," and which these two, with Sebastian, Innes and Wallace, had tried to accomplish.

The witnesses again differed as to the account Innes gave in his oral testimony of the response he made to Sebastian, when this proposition was submitted to him for consideration. Judge Trimble was conscious that his recollection was not distinct. He remembered that Innes asserted that "he observed to Sebastian it was a dangerous project, and added something about the Western peo-

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\* Deposition of Hon. Henry Davidge, in case of *Innes v. Marshall*.



ple" which Trimble did not distinctly understand. In consequence of not distinctly "collecting" "the precise expression of Mr. Innes immediately following the remark that it was a dangerous project," Trimble "was left in a painful suspense" "as to how far Mr. Innes had gone in rejecting or repelling the proposition in the first instance, and which was not removed until Mr. Innes' written deposition was read before the committee." The recollection of George Walker and William McMillan was, in substance, in answer to leading questions, that Innes stated that he had remarked to Sebastian that it was a dangerous project and ought not to be countenanced; and that on Sebastian urging him to see Nicholas, to whom also the communication of Power was addressed, he agreed to do so, not that his own position should be determined by that of Nicholas, but simply that a formal written answer should be made. On the other hand, Judge Bibb deposed that:

"My understanding of said Innes' testimony, as delivered *viva voce*, is clear and distinct, that said Innes did take the paper from Sebastian, for the purpose of communicating the said propositions to Colonel Nicholas, telling said Sebastian *that he, Innes, would abide by whatever determination Colonel Nicholas should make upon the subject of those propositions*, and to show that determination produced a paper which he stated was a copy of a written reply signed by Colonel Nicholas and himself, the original whereof had been delivered to said Sebastian."

Judge McKee was equally positive. He said:

"When the proposition of Doctor Power was submitted to Harry Innes by Benjamin Sebastian, Harry Innes stated before the committee that he answered Sebastian by stating that he, Innes, would see Colonel Nicholas in a few days, who was one of the persons to whom the overture was made, and submit the papers to Colonel Nicholas, and they would be governed by his decision. This is the substance of the statement made before the committee." "This deponent says, that, according to his recollection, Harry Innes, before the committee, did not state any reasons, as having been given to Sebastian, when the proposition was made to him; but declined any definitive answer until he obtained the opinion of Colonel Nicholas. It is in this respect the written deposition differs from that delivered before the committee."

It will be understood, that, after giving in his testimony orally, Judge Innes was permitted to reduce his statement to writing, and to submit it in the form of a deposition. The above testimony was adduced to show in what respect the written differed from the oral statement. There was

evidence that Innes requested the committee to point out such difference, if any there were, that it might be corrected before he signed his deposition, and that no such correction was desired. Other witnesses did not remember this, but did remember that the variance was noticed at the time. The following is the statement made in the deposition :

"That Mr. Sebastian came to this deponent's house, some short time after receiving the communication, and shewed it to him, upon which this deponent observed, that it was a dangerous project, and ought not to be countenanced, *as the western people had now obtained the navigation of the Mississippi, by which all their wishes were gratified.* Mr. Sebastian concurred in sentiment, but observed, that Power wished a written answer, and requested me to see Colonel Nicholas, saying that whatever we did, he would concur in. I promised to visit the Colonel in two or three days. This deponent never had any communication with Mr. Murray upon the business, nor does he know that Mr. Sebastian ever did inform Mr. Murray of it."

This version was afterwards supported by Sebastian in his deposition in the suit of *Innes v. Marshall*. Whether or not Innes at once rejected the infamous proposal when it was communicated by Sebastian, or deferred a decision until that of Nicholas had been obtained, the evidence is, that, after consulting with that able and distinguished man, Innes united with him in the very mild and studiously inoffensive missive which was returned to Power. It will be remarked, however, that, according to Innes' own statement, he deemed the proposition "dangerous" and one that "ought not to be countenanced," *because*, ("as") "the western people had *now* obtained the navigation of the Mississippi, by which all their wishes were gratified," and, therefore, could not be induced to embark in such a "Revolt from the Union;"—from which the implication naturally arises, that, had not European complications compelled the Spanish king to disregard the advice of Wilkinson, by acquiescing temporarily in that navigation, in the treaty he had concluded with the United States, the answer of Innes would have been different. Wilkinson, who had urged the king never to make the concession to the United States, was "cool" to Power, on precisely the same ground;—by the treaty the Spaniards had

abandoned their power over the western people. The witnesses agreed, that, when Innes went before the committee the second time, after consulting with John Brown, who probably advised him that all must come out, and he had better anticipate the revelations that would be made by others;—his agitation was extreme. Before informing the committee that he had additional communications to make, he burst into tears. During the progress of the revelation, he lost the power of speech, gasped for breath, and seemed in a fainting condition. The committee drew away from around him, and the windows were opened to give him air. It was, indeed, a most humiliating, sorrowful, pitiful scene.\*

The impression produced upon the committee by the disclosure made by the trembling, hysterical, gasping, fainting, weeping jurist, may be gathered from the deposition of Davidge, that “this deponent was surprised that these matters did not come out upon the first examination of the plaintiff before the committee. This deponent, on hearing the proposition of Power (in 1797) observed to one of the committee, that this was the cream of the joke; that the proposition of Power cast light on the whole affair, and that the deponent could now see into the whole mystery; that the commercial arrangements appeared to be more like military operations or preparations.” †

When giving his testimony in the case of *Innes v. Marshall*, Hon. George M. Bibb‡ was reminded that he had

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\* Depositions of George M. Bibb, Colonel John Allen, Hon. Henry M. Davidge and others *in re Innes v. Marshall*.

† Davidge testified that “no instance has yet occurred to this deponent where the feelings of a witness so completely triumphed over his philosophy.”

‡ The deposition of Colonel John Allen is dated “Camp at Wayne’s Battle Ground, near the foot of the rapids of the Miami of the Lake, January 13, 1813.” In a letter he stated that his ink was freezing as he wrote, and that for more than four months his “clothes had not been off, except to change a shirt.” A few days later he fell at the Raisin. His body was never recovered. The “Political Beginnings” having stated that Allen was one of the objects of Marshall’s rancor, it may be proper to state, that, in the deposition Colonel Allen spoke of him as

been a judge of the court of appeals, and was asked : " Had a citizen of this state or a foreigner within its jurisdiction made to you the proposition herein ascribed to Power, had you been a judge possessing criminal jurisdiction of treason or suspicion of treason, what would have been your duty ? " He replied : " I should have considered it my duty to have caused the offender to be apprehended ; brought to trial, and not dismissed by my consent or authority, until he had given security for his good behavior, in case the law had provided, or the constituted authorities had adjudged no greater penalty for such an offense."\*

" an uncommonly good neighbor ; " that Marshall had, on his removing to Frankfort, manifested a friendly disposition towards him, and that there had been considerable intercourse between their families, which had not been interrupted by their political differences. He spoke particularly of the kindness of Mrs. Marshall to his family when they were in distress, " which had made a lasting impression." The writer has personal and definite knowledge, that this friendship was always maintained between the descendants of Humphrey Marshall and those of Colonel Allen.

\*In the trial of this case this statement of Judge Bibb was probably severely felt by the plaintiff. This the writer infers from the fact, that, after the trial, his deposition was retaken, January 1, 1815, apparently for the purpose of obtaining some statement which might " let Innes down " a little more easily. Bibb was then asked if he had not, after this investigation, continued his habits of intimacy with Innes, *and accepted his invitations to dine*. He replied that he " was in the habit of social intercourse with the plaintiff, and accepted most willingly his invitations to his house and to his table." He was then asked by Humphrey Marshall, whether it was Innes' " own merits, or that of his *cook*, which induced you to attend his dinner parties ? " To this Judge Bibb replied : " That he associated with the plaintiff ; believing him to be a man of amiable character, an exemplary man in his domestic government, of great benevolence. I did not ascribe to him any bad intentions in relation to the intrigue and conspiracy of Sebastian with the Spanish government. My opinion was, and yet is, that Mr. Innes, from a natural benevolence and mildness of character, *yielded too far to the temper of the times, and warmth of friendship for and confidence in certain individuals*. If I had thought him criminal I never should have invited Mr. Innes (the plaintiff) to my house, nor accepted an invitation to his."

This statement by Judge Bibb gives expression to the only palliation that can be found for the conduct of Judge Innes ;—justification is impossible. In a conversation with John Joutt, in 1815, Humphrey Marshall said that he had never regarded Innes as personally and privately a bad man. And the flagitiousness of his political conduct he attributed

Judge Innes gave the following as the reason why he and Colonel Nicholas did not communicate the propositions that had been made to the Executive of the United States, viz :

"1st. That it was well known that neither of us approved of Mr. Adams's administration, and that we believed he kept a watchful eye over our actions, that the communication must depend upon his opinion of our veracity ; and it would have the appearance of courting his favor. 2d. That we both had reason, and did believe, that the then administration were disposed upon the slightest pretext to send an army to this state, which we considered would be a grievance upon the people, and therefore declined making any communication upon the subject, as we apprehended no danger from the Spanish government."

Of this statement, Perrin, in his *History of Kentucky* (page 300), says, that at the time it was considered "rather lame," and that the reasons assigned "were not believed to be the true reasons" for the failure to communicate the treasonable proposition to the Executive. While the honest and impartial Hildreth, discrediting the statement as flimsy and ridiculous, distinctly expresses his conviction, that secrecy was maintained because a disclosure would have induced an investigation which would have implicated Innes in other matters which it was his deep interest should remain covered. As between the justice of these expressions, and that of Colonel Brown's broad assertion, that "no one, who will take the trouble to examine the testimony given under oath, can have a shadow of doubt" of the "perfect rectitude" of Innes, the reader is left to determine. Certain it is, however, that among the members of the committee who heard the testimony as it was given, and who afterwards testified in the libel suit of *Innes v. Marshall*, there was more than one who did have

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entirely to the evil influence exerted over him by others. All of the misfortunes which embittered the closing years of his life were attributable to his intimacy with, and the baneful influence of, James Wilkinson, John Brown, and Sebastian. In the origin of the *personal* quarrel, between Innes and H. Marshall the latter was to blame, and so confessed himself. That quarrel was never espoused by any of Marshall's kindred, none of whom had any share or participation therein, and not one of whom ever manifested or cherished the slightest personal ill will against Innes on that or any other account.

very grave doubts of the rectitude of the Federal Judge. Nor were those doubts confined to them; they were shared by the people and by many of the prominent men of the Commonwealth. The judgment of the committee was, that the intercourse of Sebastian with the agents of the Spanish Government, a part of which certainly was with the confessed approbation and connivance of Innes, was "illicit, unjustifiable, and highly criminal, subversive of every duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky."

Still no direct censure had been passed upon the Judge of the Federal Court by name. That he remained unmolested was unquestionably not attributable to any conviction on the part of those in authority that there was no culpability in his own conduct, nor in the concealment of the treasonable proposition which had been made to him, but solely to the fact that the concealment had been practiced during the administration of John Adams, who had been succeeded by Mr. Jefferson, of whom Innes had been a devoted partisan.\*

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\* In 1797, the Federal army, which Innes was so fearful might be sent to Kentucky, was under the command of his friend, James Wilkinson.

## CHAPTER XXII.

HUMPHREY MARSHALL BECOMES A CANDIDATE FOR THE LEGISLATURE—ANNOUNCES HIS PURPOSE TO INAUGURATE MEASURES TO SECURE THE IMPEACHMENT OF INNES—IS ELECTED—POPULAR VERDICT UNFAVORABLE TO INNES—ACTION OF THE LEGISLATURE EQUALLY CONDEMNATORY—MORE OF COLONEL BROWN'S MISREPRESENTATIONS—THE LIBEL SUIT AGAINST STREET—MARSHALL NEITHER WROTE THE ARTICLE ON WHICH STREET WAS SUED, NOR GAVE THE INFORMATION ON WHICH IT WAS FOUNDED—COLONEL BROWN CLAIMS THAT THE INVESTIGATIONS COMPLETELY VINDICATED INNES, BUT CONCEALS THE RESULTS OF THOSE INVESTIGATIONS—SUPPRESSES THE RESULT OF THE SUIT AGAINST MARSHALL—THAT SUIT GOES TO TRIAL—A DIVIDED JURY.

Having been chiefly instrumental in driving Sebastian in well merited disgrace from the Court of Appeals, in order that measures might be initiated for the visitation of what he conceived to be equal justice upon Innes, Humphrey Marshall now determined to announce himself as a candidate for a seat in the next Legislature. The Federal party, of which he was the ablest and most conspicuous member then in Kentucky, was dead beyond the power of resurrection. His vote for the ratification of the Constitution of the United States, the adoption of which had saved the people from anarchy and all the evils that flow from lawlessness, and had rescued the country from impending dismemberment and internecine strife, had been imputed to him as a crime much worse than treason. His vote for the Jay treaty with Great Britain, which declared the neutrality of our country in the conflicts which desolated Europe, and kept us free from all entangling foreign alliances; which first announced and inaugurated the policy which has ever since been maintained by all subsequent administrations; which at the time saved us alike from a threatened war with Great Britain and from being made a mere adjunct of France; which immediately led to the surrender of the posts in the North-west, to the



pacification of the Indians, and to important commercial advantages;—for a vote which gave peace and averted war, guarded our honor and promoted our interests and welfare, he had been denounced as a friend of monarchy, an enemy of liberty, and had been villified as though he had been the vilest of malefactors. To his other offenses as a senator had been added the crime of the ardent support he had given the administrations of Washington and Adams, in their patriotic efforts to establish public credit, to maintain the national honor, to avert strife, to uphold the Constitution, and to preserve the Union against the foes by whom they were assailed on every side. As a Federalist the odium excited by the Alien and Sedition law was visited upon him. He had refused absolutely to obey instructions when they conflicted with his own matured convictions of justice and right and the interests and welfare of the whole country. Disdaining to temporize with wrong, scorning all that savored of equivocation, he courageously maintained against all comers the principles and policy of the defeated and disbanded party. The national administration was in the hands of an enemy to all of his name and kindred. The state administration was controlled by his own implacable foes. With many of the prominent men of the state he had been involved in the most acrimonious political and personal controversies. Seldom was any man so maliciously traduced. The assaults by insignificant tools of others were treated with contemptuous indifference. But the leaders among his antagonists who assailed him had abundant cause for regret.

On the other hand, Innes, a generous, hospitable and amiable man, much beloved for his personal qualities, was surrounded by a large, respectable and influential family connection, as well as by friends whose political and personal interests were identified with his own, and who had at their back all that prestige of success and wealth can bring. It was under these circumstances, in a community in which he had been grossly outraged by mob violence, that Marshall, single handed and alone, openly avowing

his object, entered the canvass against all odds, and appealed to the people whom he had never courted or flattered, upon the facts established by the record. He was elected, and, on the same issue, was re-elected to the succeeding Legislature; from this circumstance, which Colonel Brown fails to mention, may be gathered the contemporary judgment upon the evidence as passed by the community in which both men lived.

Having thus obtained a popular verdict, in January, 1808, Humphrey Marshall presented resolutions to the Kentucky House of Representatives looking to an investigation into the conduct of Innes by Congress. They were opposed by Mr. Clay, on the ground that they constituted an expression of opinion and tended to prejudice Innes. They were not adopted, and Mr. Clay's substitute therefor was also rejected. The substance of Marshall's resolutions was then embodied in others which were presented by William Blackburn, and were adopted by both branches of the General Assembly, which were transmitted to Congress, and which fairly reflect the sentiment and judgment not only of that legislative body, but of the most moderate and conservative of the candid and thinking people of the State at that time, viz.:

"Inasmuch as it has been deemed expedient to express the public opinion on subjects of general concern, as the means of union among members of the same community, or as indications of the public, serving as guides to public servants in their official conduct; and whereas, from representations made to the General Assembly by the introduction of a resolution, and upon the application of Harry Innes, Esq., by letter directed to the Speaker of the House of Representatives, and by him laid before that house praying an examination into the charges exhibited against him in said resolution, and from evidence to them exhibited, it appears that the said Harry Innes, Esq., while sole judge of the Federal Court, for the Kentucky district, had knowledge of various intrigues and secret negotiations having been at different times carried on by the agents and emissaries of a foreign government with citizens of this State, *hostile to the peace and tranquility of the Union*; particularly in the case of the Baron de Carondelet, and in the case of Thomas Power, agents and emissaries of the King of Spain; and the said Harry Innes, Esq., possessing a complete knowledge of propositions having been made to himself and others, citizens of the Western country, by the said Carondelet and Power, which had for their object the dismemberment of the Union; and having failed to communicate to the Federal Execu-

tive, or to take any measures of prevention, as by the duties of his office he was bound to do; and the conduct of the said Harry Innes, Esq., in this particular having been such as to excite great public discontent, and a suspicion that he participated in the intrigues and secret negotiations aforesaid.

"The Legislature deem those circumstances in the conduct of the said Harry Innes, Esq., as furnishing an occasion of sufficient magnitude to interest the attention of the representatives of the people of Kentucky, and to call forth the expression of their opinion; therefore,

*"Resolved, By the Senate and House of Representatives, That the conduct of the said Harry Innes, Esq., relative to the secret negotiations of the said Carondelet and Power, ought to be inquired into by the constituted authorities of the United States.*

"Also resolved, That the Governor of this State be requested to transmit a copy of the forgoing resolutions to each of the representatives of this State in the Congress of the United States."

These resolutions were adopted by a general assembly inimical to the political views of Marshall; they did not utter his personal ill will, but gave a voice to the deliberate sentiment of the representatives of the people as to what was due to the honor and dignity of the Commonwealth which they deemed to have been outraged by the federal judge. They were transmitted to Congress, and were by that body referred to a committee. The report of that committee did not acquit Innes of culpability nor of criminality; it simply stated that in the opinion of the committee the proofs which accompanied the resolutions of the legislature were not sufficient upon which to *impeach* the district judge. It was an evasion of the request for an *investigation*, which would have exposed many a skeleton, and which the committee therefore deemed it inexpedient to institute. The sketch of Judge Innes, published by Collins, mentions that charges against him were ignored by Congress, but it gives no clue to the nature of those charges, and suppresses the fact that they were made by the legislative power of the state in which he lived, controlled by the party of which he was a member. And the "Political Beginnings," while asserting that Innes was vindicated by the investigation of the charges against Sebastian, conceals the fact that one of the results of that investigation, was this formal action of the General Assembly of 1807-8.

In his Centennial Address Colonel Brown did not hesi-

tate to stigmatize as "malevolent slander" the imputations upon Innes published by Humphrey Marshall and thus indorsed by the people of the county in which they lived and by both branches of the legislature. In that address it is boldly asserted, that "the litigation between Innes and Marshall, in 1806, developed the evidence that gave his merited vindication;" and that "by this prosecution for libel, his pure and unfaltering patriotism was vindicated *in the eyes of even his persecutors.*" The same address states, that "the suit against Marshall was continued several times and finally dismissed upon a written agreement that all personal differences should be buried in oblivion, and that neither should write or publish any thing of or concerning the other disrespectful in terms or inference, or touching upon any subject of controversy that had existed. It was an ill-kept agreement." The author of that address, referring to a number of public men who were not accused of complicity in the Spanish intrigues, states, in the "Political Beginnings," that "they gave their testimony in the suits for libel which Hary Innes brought against the historian Marshall, *as author*, and Street, the newspaper proprietor, *as publisher*, and their statements under oath *are worthy of credence, and should settle the dispute forever*" [page 164.] In the same remarkable work, it is asserted, that the results of the investigation in the case of Sebastian, and of the suits against Street and Marshall, "vindicated Innes, who was chiefly attacked. Street was mulcted in damages that ruined him. Marshall agreed to refrain in future from assaults on Innes if the suit was dropped, and it was therefore discontinued," [page 216,] and that "the records of those controversies show that *no man who was present at any of these conventions knew, or believed, or, suspected, that Brown or Innes had ever entertained a thought other than that of entering the Union as a sovereign state, or a plan consistent with that thought.*" And this last statement was made directly in the face of the depositions of Judge John Allen, of Bourbon, of Colonel Joseph Crockett, and of French, all of which Colonel Brown had read;

of the letter of Colonel Marshall, which he had also read ; and of the letters of Muter, which were published in the paper with which he was familiar !

But the attention of the reader is now directed to the evident purpose of Colonel Brown to create the impression that Street, "*as publisher,*" and Humphrey Marshall, "*as author,*" were sued for libel contained in the *same* publication or publications ; that Street, "*as publisher,*" was mulcted in damages that ruined him on account of libel in an article which Marshall had written ; while Marshall, "*as author,*" sneaked out of the trouble in which he had involved Street, by promising " never to do so any more." No other interpretation can be placed on Colonel Brown's statements on pages 164 and 216 of his book. Now, the fact as it existed, *as it was proved*, and as Colonel Brown knew it to be, is this : That the articles, upon which Street was sued and mulcted, were published in 1806 ; that Street himself deposed, in the case of *Innes v. Marshall*, " that the matter upon which the suit at Jessamine (that against Street) was predicated, *was this deponent's own composition ;*" that Street testified that he " was irresistibly led to the conclusions in those publications by a serious, candid and liberal examination of the testimony delivered by Judge Innes before the committee in the case of Sebastian ;" that Street further testified that the charge published in the *Palladium* that Humphrey Marshall had furnished the information upon which the articles in reference to the " Spanish conspiracy were founded " " was untrue ;" and " that he did not receive the matter relative to the Spanish conspiracy from the defendant." The article, on the other hand, upon which Marshall was sued, was published months later, in answer to abusive assaults made upon Marshall himself, and no claim was ever made upon Street on account thereof. The fact remains, that no verdict was ever obtained against *any one* for libel contained in any article written by Marshall, or which was based upon information he had furnished.

The reader has not failed to observe, that in the extracts published from the address and from the " Beginnings "

there is no intimation that the suit against Marshall *ever went to trial*. The address and the book may be searched from their beginning to their closing sentences without the detection of a hint that the case ever went to a jury. The author of those unique papers would have been seriously inconsistent with himself, and would have been as seriously embarrassed in his purpose, had he failed to conceal the fact of the *trial* and of its *results* from his readers. No other inference can be drawn from his language than that the evidence taken by deposition was so absolutely conclusive of the innocence of Innes; that the charges made by Marshall on account of which the suit had been brought were not only so utterly unsupported by the testimony, but were shown to be so wholly unfounded, that Innes was completely vindicated in the eyes of Marshall himself; and that, without a trial, and at Marshall's request, in order to avoid a result similar to that which had ruined Street, the suit was withdrawn upon Marshall's promise to desist in the future. That this impression would be created by Colonel Brown's language, and that he intended to produce it, are alike unquestionable. When Colonel Brown wrote those papers he was in possession of the records of that suit and was fully acquainted with all the facts. The suit was brought because of a communication published by Marshall in the *Western World*, on the 16th of July, 1807, in reply, as already stated, to violent and abusive assaults made upon him in the *Palladium* by the friends of Innes. In this communication he referred to Innes as a "Judge, weak, partial, and an enemy to the Government;" as "a faithless public servant and an oppressor of private rights;" as "a judge who still holds his office to the public degradation and disgrace of our country; a judge whom I rank with an Arnold, a Blount and a Sebastian."

Innes brought suit upon those words, but allowed term after term to pass without filing his declaration, until a rule was issued against him to file, and then the case was dismissed on account of his failure. This was in 1808. At the March term of 1809 it was reinstated, the declaration was filed and the appearance of the defendant was entered.

From the first Marshall avowed that he had written the words in question, affirmed their truth and justified every word. After various special pleas, demurrers, amendments, answers, etc., Marshall plead to the general issue, which Innes joined, at the July term of 1810. At the October term of the same year the case was, by consent, transferred from the Franklin to the Mercer Circuit Court, where it came on for final trial on the 8th of June, 1814.

Marshall was without political influence; Innes was an influential member of the dominant party. Marshall had many enemies made by his bold championship of national principles and his fierce denunciation of what he held to be criminal practices; Innes was kindly and conciliatory, and Church and State and official position were at his back. To Marshall, of whose sincerity in preferring the charges there could be no doubt, the question was merely pecuniary; and, without being distressed thereby, he could have met all the damages claimed. To the unhappy Innes, on the contrary, the issue was one of character and reputation and of personal disgrace. Thus the case was given a semi-criminal aspect, in which Innes was the person actually on trial, and to him naturally drifted the current of sympathy. Upon Marshall rested the entire burden of the proof. It devolved on him to verify his charges, not upon Innes to disprove them. One of those charges made most prominent in the issue by Innes was that, *as a judge*, he had been “weak, *partial*,” and “*an oppressor of private rights*.” If Marshall failed to sustain that charge also, he lost his case, no matter how conclusive might be the evidence on all other points. The trial, in which Innes thus had every advantage except that of the facts on his side, occupied ten days. It was then announced *that the jury could not agree*. In his History Marshall states that five of the jury were for giving Innes damages, if for only *one cent*; while the other seven said *no, not a cent shall he have*.

Now, in the insinuating and expressive language of Colonel Brown, it is “passing strange,” indeed, if all the



evidence so completely and thoroughly vindicated Innes, and established that Marshall had for so many years pursued and hounded him with malignant slander, with totally unfounded and unsupported accusations of offenses so disgraceful to him as a man and judge; that, in the absence of any testimony whatever to justify Marshall, and such an overwhelming mass of irrefragible proof of the innocence and purity of Innes, as represented by Colonel Brown;—if that were true, it would be most astounding that the jury who heard it all could not be persuaded to give the persecuted man even one cent as a salvo. That Colonel Brown felt the full significance of this refusal is evidenced by the concealment in which he had refuge.

A year later Marshall met John Jouitt, a friend of Innes, and stated that he had no fear that Innes could ever obtain a verdict against him; that the suit had been on for eight years, had already cost Innes and himself a great deal of money, and seemed to be as far from a conclusion as ever. In the meantime they had both grown old; and his own business affairs needed the time occupied in defending the suit; under these circumstances he was willing that it should be marked settled and be dismissed, *each party paying his own costs*. As to the future, an agreement was reached that neither party would write or speak disrespectfully of the other concerning what was past. On these terms, leaving all that Marshall had written and published unretracted, unqualified, and sustained by legal proof which, if not so absolutely conclusive as a mathematical demonstration might have been, was at least so weighty as to satisfy some, and probably a majority of the jury which tried the case, that the characterizations used by Marshall were as deserved as the evidence by which he justified them was clear and abundant,—the suit was dismissed by the judge, who had brought it for the vindication of his patriotism and official integrity! The reader will agree that the “complete vindication” which Colonel Brown coolly asserts, that Innes received as the results of these legislative and judicial inquiries, as seen in the report of the committee which investigated

the charge against Sebastian; in the popular verdict rendered in the election of Humphrey Marshall to the Legislature from Franklin county, upon the open issue that it was his purpose to inaugurate steps for the impeachment of Innes; in the resolutions passed by both branches of the Assembly looking to that action by Congress; and in the refusal of the jury to give him a verdict in the suit he brought, was one of which no one would ever boast, and which his rash champion might well have declined to mention. Nor does a careful sifting of the testimony relieve the unfavorable impression made by these opinions of committee, people, Legislature and jury. And the suggestion must forcibly, as unavoidably, present itself to every mind, that had the letters of his friend, Wilkinson, which have since been obtained from the Spanish archives, been then produced in evidence before that committee, before that Legislature, before the Congress, or before the jury, the results would have been yet more unfortunate for the amiable, but unhappy and ill guided judge.

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In 1788 the laws of Virginia denounced as high treason the attempt to erect a State within her limits without her consent previously obtained. That state had adopted the Constitution and had become a part of the new Union. John Brown was one of her Congressmen. As her Attorney it was the duty of Innes to prosecute infractions of her laws; as one of her Judges it was that of Wallace to enforce the penalty. The degree of turpitude involved in the schemes herein disclosed may safely be left to casuists to determine. What the conspirators themselves thought of those schemes is exhibited by their attempts at concealment. What their latest champion thought of them is shown by his painful attempts to repel the charges and to suppress the evidence that manifests their justice. Before the November convention John Brown had been informed by Madison of the declaration of Congress that the navigation of the Mississippi was an "essential right of the United States."

The reader has seen how the "Political Beginnings"

plays at shuttlecock and battledore with John Brown;—how on one page it represents him as knowing nothing of the Jay project until March, 1787, and nothing of the action of Virginia until the following May; and how on another page it represents him as “procuring” that action in the preceding November. He has observed how the statement in that book, that the object of John Brown’s resolution in the November convention was to secure an immediate application to Congress for admission to the Union, is flatly contradicted by John Brown’s own statement in *Littell*;—which not only relegates that application to some indefinite time in the future, but confesses that an inducement to adopt the resolution was the prospect of obtaining from Spain the navigation of the Mississippi, which the author of that resolution knew could only be had by separating from the United States. That condition, which was concealed from the readers of *Littell*, was known to the author of the “*Beginnings*,” who detected the fraud his ancestor had endeavored to palm upon the people. The author of the “*Beginnings*” also saw, as plainly as the reader sees it, that after John Brown had received the overture of Gardoqui; had then sought the Spaniard at his own house for further communication on that subject; had thanked his tempter for having so approached him and promised to “aid” in the plan; had written the Muter and similar letters with the Spaniard’s *permission*; had come home and consulted with the Spanish-bought Wilkinson and others whom he supposed favorable to the scheme; had coöperated with Wilkinson in the November convention; had there offered a resolution designed to separate Kentucky from Virginia, and necessarily, under the circumstances then existing, from the Union; and that then, according to his own statement in *Littell*, he had disclosed the overture of Gardoqui as an inducement to adopt his own resolution:—he saw that, after all this, his grandsire’s poor plea, to avoid the conclusions which all must reach from his acts, that he had not *advocated* the acceptance of the overture by the convention, was weak, puerile, and contemptible. If he did not, the

reader can judge whether it was because of his patriotism, or, as stated by Wilkinson, it was due to his timidity. Admitting by unmistakable implication that had John Brown spoken as represented by Humphrey Marshall, he "spoke treasonably;" and feeling that if John Brown spoke as he himself stated in Littell that he had spoken, it was yet worse for him than as represented by Marshall;—the "*Beginnings*" suppresses the statement made by Littell, suppresses also all the evidence which confirms that made by Marshall;—and endeavors to extricate John Brown from his difficulty by asserting, that he kept the overture of Gardoqui a profound secret from all but McDowell and Muter, by boldly affirming that John Brown deemed it inexpedient to narrate to the convention what Gardoqui had said, lest rash men might make trouble by advocating what Gardoqui had proposed; and by laboriously arguing that the "quotation," which he knew was a repetition of what Colonel Marshall had written, was a coinage out of the malice of the historian Marshall. The reader has seen what were the facts; knows how that "quotation" was confirmed by every witness who wrote or spoke in reference thereto, was admitted substantially by the questions of Innes, and was challenged by no one; and knows also how the assertion in the "*Beginnings*" is refuted by that which John Brown himself authorized Littell to make in the "*Narrative*." These tortuous concealments of the evidence, these pitiful efforts to evade the facts, these statements which are so emphatically contradicted by John Brown himself, and these shameless accusations of others, render the "*Beginnings*," instead of the "vindication" for which it was designed by its author, a sorrowful, a painful and a most sickening confession of the author's own conviction of John Brown's guilt, and of his detection of John Brown's deceits in his efforts to conceal that guilt. It surely is not necessary to recapitulate. The charitable may find an extenuation of the course pursued by the grandson in his morbid desire to relieve his ancestor's memory from the cloud that darkened it, and his perception, after a careful investigation,

that it could be done in no other way. But, alas! what must that cause have been for which *this* was the best that can be done!—how utterly desperate, when a well equipped and able advocate, possessing linguistic facility and the literary art, a careful and laborious reader and a diligent student, after exhausting all the resources from which the materials for a defense can be drawn, found that *this* was a *necessity*!

And the reader will admit that, unfortunate as the federal judge himself had been in the results of the several investigations, referred to in the “Beginnings,” his memory has sustained yet more serious injury, by the useless and wanton resuscitation in that remarkable production of these unsavory political reminiscences;—which had been well nigh forgotten in the stirring scenes of the recent past;—and which the friends of the descendants of Judge Innes, among whom were included the kindred of his adversary, were most anxious should be forever buried. There is no need to dwell longer upon the infelicity which has attended this latest effort at a much needed, but impossible, “vindication.” The misrepresentation that Innes had moved, prepared, reported, and advocated the address to the Virginia Assembly; the false pretense that Owen had been murdered within Spanish territory, and that the American courts had no jurisdiction over the crime of his murderers; the suppression of the evidence of Allen and French; the concealment of the action of both branches of the Legislature, and of the fact and result of the trial of the libel suit;—all unite in the absolute demonstration that, in Colonel Brown’s own opinion, after the most laborious and careful examination, neither could the innocence of Innes be maintained, nor the candor and integrity of the historian be impeached, save by this systematic suppression of testimony, by this concealment of truth, by this garbling and misstatement of records, and by this substitution of invention for fact.

Were the writer disposed to enter upon a defense of the historian, the manifest confession implied in the course pursued by an able, well informed, and deliberate investi-

gator, renders it superfluous. It is admitted that the last of the old Federalists in Kentucky, the relentless foe of all conspiracies against the peace, the independence or the union of our country, was as human as he was mortal. But, if it be conceded, that, with splendid talents, a grand presence, stately manners, and an utter fearlessness, he was as irreligious, as profane, as violent, and as malevolent as Colonel Brown would have him appear to have been, nevertheless it can be confidently asserted, that neither treachery nor the habit of falsifying was numbered in the catalogue of his vices.\*

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\*An interesting sketch of Humphrey Marshall has been prepared by A. C. Quisenbury, and will soon be published from the press of John P. Morton & Co.





## APPENDIX.

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### A.

#### LETTER OF THOMAS GREEN TO THE GOVERNOR OF GEORGIA.

LOUISVILLE, FALLS OF OHIO, Dec. 22, 1786.

*Honored and Respected Sir:*—Since I had the pleasure of writing my last, many circumstances of alarming nature have turned up to view. The commercial treaty with Spain is considered to be cruel, oppressive, and unjust. The prohibition of the navigation of the Mississippi, has astonished the whole western country. To sell us and make us vassals of the merciless Spaniards, is a grievance not to be borne. Should we tamely submit to such manacles, we should be unworthy the name of Americans, and a scandal to the annals of its history. It is very surprising to every rational person that the legislature of the United States, which has been so applauded for its assertion and defense of their rights and privileges, should so soon endeavor to subjugate the greatest part of their dominion even to worse slavery than ever Great Britain presumed to subjugate any part of hers. Ireland is a free country to what this will be when its navigation is entirely shut. We may as well be sold for bondsmen as to have the Spaniards share all the benefits of our toils. They will receive all the fruits, produce of this large, rich, and fertile country, at their own prices, (which you may be assured will be very low) and, therefore, will be able to supply their own markets, and all the markets of Europe, on much lower terms than what the Americans possibly can. What then, are the advantages that the inhabitants of the Atlantic shores are to receive? This is summed up in a very few words: their trade and navigation ruined, and their brethren laboring to enrich a luxurious, merciless, and arbitrary nation. Too much of our property have they already seized, condemned, and confiscated, testimonies of which I send you, accompanying this.

Our situation can not possibly be worse; therefore, every exertion to retrieve our circumstances must be manly, eligible, and just. The minds of the people here are very much exasperated against both the Spaniards and Congress. But they are happy to hear that the state of Georgia has protested against such vile proceedings: therefore they have some hopes, look up to that state, craving to be protected in our just rights and privileges.

“Matters here seem to wear a threatening aspect. The troops stationed at Post Vincennes by orders of General George Rogers Clark

have seized upon what Spanish property there was at that place, also at the Illinois, in retaliation for their many offenses. General Clark, who has fought so gloriously for his country, and whose name strikes all the western savages with terror, together with many other gentlemen of merit, engages to raise troops sufficient, and go with me to the Natchez to take possession, and settle the lands agreeable to the lines of that state, at their own risk and expense; provided you in your infinite goodness, will countenance them and give us the land to settle it agreeable to the laws of your state. Hundreds are now waiting to join us with their families, seeking asylum for liberty and religion. Not hearing that the lines are settled between you and the Spaniards, we therefore wish for your directions concerning them, and the advice of your superior wisdom. At the same time assuring you that we have contracted for a very large quantity of goods, we hope sufficient to supply all the Indians living within the limits of Georgia. Trusting that we shall be able to make them independent of the Spaniards, wean their affections, and procure their esteem for us and the United States, as we expect to take the goods down with us. We earnestly pray that you would give us full liberty to trade with all those tribes, and also to give your agents for Indian Affairs all the necessary instructions for the prosperity of our scheme. The season for the Indian trade will be so far advanced that I wait with very great impatience.

“General Clark, together with a number of other gentlemen will be ready to proceed down the river with me, on the shortest notice; therefore I hope and earnestly pray that you will dispatch the express back with all possible speed with your answer, and all the encouragement due to so great an undertaking. As to the further particulars, I refer you to the bearer, Mr. William Wells, a gentleman of merit, who will be able to inform you more minutely than I possibly can of the sentiments of the people of this western country.

Sir, I have the honor to be your honor's etc.,

THOMAS GREEN.

[*Secret Journals of Congress.*]

## B.

CIRCULAR, PROBABLY WRITTEN BY THOMAS GREEN.

During the winter of 1786-7, copies of the following production were circulated with an air of secrecy, among some of the American settlements on the western side of the Alleghany mountains; particularly in Kentucky and Tennessee.

“A COPY OF A LETTER FROM A GENTLEMAN AT THE FALLS OF OHIO, TO HIS FRIEND IN NEW ENGLAND, DATED DECEMBER 4, 1786.”

*“Dear Sir:—*Politics, which a few months ago were scarcely thought of, are now sounded aloud in this part of the world, and discussed by almost every person. The late commercial treaty with Spain, in shutting up, as it is said, the navigation of the Mississippi for the term of twenty-five years, has given this western country a universal shock, and struck its inhabitants with an amazement. Our foundation is affected. It is therefore necessary that every individual exert himself to apply a remedy. To sell us, and make us vassals to the merciless Spaniards, is a grievance not to be borne.

The parliamentary acts which occasioned our revolt from Great Britain were not so barefaced and intolerable. To give us the liberty of transporting our effects down the river to New Orleans, and then be subject to the Spanish laws and impositions, is an insult upon our understanding. We know by woeful experience, that it is in their power, when once there, to take our produce at any price they please. Large quantities of flour, tobacco, meal, etc., have been taken there the last summer, and mostly confiscated. They who had permits from their governor, were obliged to sell at a price he was pleased to state, or subject themselves to lose the whole. Men of large property are already ruined by their policy. What benefit can you on the Atlantic shores receive from this act? The Spaniards, from the amazing resources of this river, can supply all their own markets at a much lower price than you possibly can.

Though this country has been settling but about six years and that in the midst of an inveterate enemy, and most of the first adventurers fallen a prey to the savages, and although the emigration to this country is so very rapid that the internal market is very great, yet the quantities of produce they now have on hand are immense. Flour and pork are now selling here at twelve shillings the hundred; beef in proportion; any quantities of Indian corn can be had at nine pence per bushel.

Three times the quantity of tobacco and corn can be raised on an acre here that can be within the settlement on the east side of the mountains, and with less cultivation. It is therefore rational to suppose that in a very few years the vast bodies of waters in those rivers will labor under immense weight of the produce of this rich and fertile country, and the Spanish ships be unable to convey it to market.

"Do you think to prevent the emigration from a barren country, loaded with taxes, and impoverished with debts, to the most luxurious and fertile soil in the world? Vain is the thought, and presumptuous the supposition. You may as well endeavor to prevent the fishes from gathering on a bank in the sea, which affords them plenty of nourishment. Shall the best and largest part of the United States be uncultivated—a nest for savages and beasts of prey? Certainly not. Providence has designed it for nobler purposes. This is convincing to every one who beholds the many advantages and pleasing prospects of this country. Here is a soil, richer to appearance than can possibly be made by art. Large plains and meadows without the labor of hands, sufficient to support millions of cattle, summer and winter; cane, which is also a fine nourishment for them, without bounds. The spontaneous production of this country surpasses your imagination. Consequently, I see nothing to prevent our herds being as numerous here in time as they are in the kingdom of Mexico. Our lands to the northward of the Ohio, for the produce of wheat, etc., will, I think, vie with the island of Sicily. Shall all this country now be cultivated for the use of the Spaniards? Shall we be their bondmen, as the children of Israel were to the Egyptians? Shall one part of the United States be slaves, while the other is free? Human nature shudders at the thought, and free men will despise those who could be so mean as to even contemplate on so vile a subject.

"Our situation is as bad as it possibly can be; therefore every exertion to retrieve our circumstances must be manly, eligible, and just. We can raise twenty thousand troops on this side the Allegheny and Appalachian mountains; and the annual increase of them by emigration, from other parts is from two to four thousand.

"We have taken all the goods belonging to the Spanish merchants of Post Vincennes and the Illinois, and are determined they shall not trade up the river, provided they will not let us trade down it. *Preparations are now making here (if necessary) to drive the Spaniards from their settlement, at the mouth of the Mississippi. In case we are not countenanced and succored by the United States (if we need it) our allegiance will be thrown off, and some other power applied to. Great Britain stands ready, with open arms, to receive and support us. They have already offered to open their resources for our supplies. When once re-united to them, "farewell, a long farewell to all your boasted greatness. The province of Canada, and the inhabitants of these waters of themselves, in time, will be able to conquer you. You are as ignorant of this country as Great Britain was of America. These hints, if rightly improved, may be of some service; if not, blame yourselves for the neglect,"*

## C.

THE MEMORIAL OF DELEGATES AND REVOLUTIONARY OFFICERS TO  
THE VIRGINIA ASSEMBLY, IN 1786.

The following is a copy of the original remonstrance of the Delegates to the Assembly from Kentucky and Western Virginia, and of a number of officers in the Revolution, for themselves and their soldiers, against the proposition to forbear the use of the Mississippi below our boundaries, or, as it was represented to them, to *cede* it to Spain, for a term of years. The original paper was found in the Virginia Archives by Colonel Raleigh Colston. The copy and the *fac similes* of the signatures were made for the writer by Dr. R. A. Brock, the accomplished Secretary of the Virginia Historical Society. Many of them are those of prominent men, whose descendants have since occupied and now occupy the highest places in the South and South-west:

*To the Honble the Genl Assembly of Virginia :*

The Memorial of the Delegates representing in General Assembly the Counties of this Commonwealth upon the Western Waters, and of sundry officers of the late army for themselves & soldiers owners of lands on the said Waters Humbly Sheweth—that they are greatly alarmed at a report which prevails that a project is on foot, which has in contemplation the surrender of the navigation of the Mississippi for 25 or 30 years to the Crown of Spain in consideration of some advantages either real or supposed to some part of the Confederacy the confidence they have in the justice & wisdom of Congress wo'd induce them to hope that such a project could never receive their approbation or even their countenance so far as to merit their consideration ; but as they owe it to themselves and their Constituents to be vigilant over their interests and guard them, especially in a point of such importance to their very existence, they consider it their duty to express their uneasiness at this report, and to make known to the Legislature their apprehensions of the evils which much necessarily result from so unconstitutional and dangerous a measure, should it take effect, that they may in their wisdom take such steps as shall be best calculated to prevent it, and obtain at the same time the important object they had in view, the free navigation of the River.

Your Memorialists beg leave to observe that they are thrown into the utmost consternation & distress by this report. Inhabiting the Counties which border on the Western Waters, their prosperity & welfare and that of their Constituents must principally depend on the navigation of this River. Nature hath thrown so many difficulties in the way that it will be in a manner impossible for their product to find a Market thro'

any other Channel. This project therefore presents to them the melancholy prospect of ruin to themselves and their families. Born and educated under our common gov't and attached to it by the strongest Ties of Interest & affection, having equally participated in the hardships & dangers of the Revolution and being equally entitled to its benefits, they cannot but receive with horror the Idea of their being thus sacrificed, and their interests sold by those whom they have considered as their brethren, friends & fellow-citizens. They have heretofore been surprised to hear that even Spain should be opposed to their use of this River, and have hoped that the wise & benevolent Councils of that Court would perceive its injustice and impolicy, and give over the opposition. With patience and submission they have waited the success of those measures which Congress might take to obtain this important end, in full confidence that under a wise arrangement an amicable accomodation might soon be made to that effect. But how great must their concern & astonishment be, if the Citizens of the Western Country find that they are to be deprived of those benefits, not by the mistaken policy of Spain, but by the Government to which they belong, and to whose protection and support, by the common principles of the federal compact, they are entitled.

Your Memorialists are unacquainted with the merits of the commercial part of this project and therefore cannot determine how far it might be beneficial upon those principles alone; but they do not consider that, as a circumstance that should be taken into view in contemplation of the surrender proposed; for no considerations of advantage, however great they might be, could justify the U. S. for the violation of the federal compact, which this unquestionably would be.

The Citizens of these Counties have the same right to the navigation of this river which they have to that of the James or Patowmick; they derive it from nature, from the principles of the revolution, and from the treaty with Great Britain; the same high sources from whence they have those rights of government and religion they now enjoy for the protection and security of which the Confederacy was formed, and with the same propriety might Congress Barter away their right to the trial by jury or alien a County or a State for advantages in trade as occlude the Mississippi. Treaties of commerce have heretofore been formed even between the most despotic powers for reciprocal advantages in the commercial intercourse between their respective subjects & Dominions, but never have they before heard of a project being proposed, much less a treaty formed which shut the Doors of Commerce to one part of a community and deprived it of its natural rights for the benefit of the other; how subversive & abhorrent therefore must such a project be to the mild and free spirit of our federal constitution; formed on equal principles for common good. The confidence your memorialists have in the justice and magnanimity of Congress inclines them to hope that the report respecting this project is without foundation, but as they do in their Consciences believe that if it shall be adopted it will produce the most ruinous and destructive consequences, not only to them and their constituents, but to the general interest of the federal government, they have thought it their duty to make known to the legislature their Sentiments on the subject. The decision of the State upon the present occasion upon this point, even if the report should be groundless, may be of service in the negotiation, and contribute to bring it to a fortunate close.

That the General Assembly may take those measures which shall be

the best calculated to obtain this important end, and preserve at the same time the harmony & general interests of the Confederacy is the sincere desire of your Memorialists.

John Campbell	David Scott
<del>Geo. Henderson</del>	
John Joubert	John Fowler
Dr. Henderson	Rich <sup>d</sup> Tenell
Gas Crockett	Geo <sup>d</sup> Jackson
W Harris	in Texas, And H <sup>g</sup> us
Wardon	Anderson
James Wood	John Jameson
T Minnether	Wm White
John Overton	Wm Clarke
W Penley	Wm Barrett
	George Gilman
Wm Moreley	James L Deane
John Crapperaunt	Wm Mammuz
Theo <sup>d</sup> Bland	Wm F. R. W. S.
Chas Harrison	Geo Rickett
John Green	Sam <sup>l</sup> & Tinsley
Philip Clayton	Chiswell Barrett
John Traben Jr	Wm Keith
Chas Dabney	
Thomas Foley	
Sam <sup>l</sup> Gable	Mcarringer
Geo Neay	Bruckmeyer
	Frank Preston





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## ERRATA.

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Page 48, 15th line, for "conception" read *inception*.

Page 58, line 2, read *Muter* for "Winter."

Page 106, 5th line from the bottom, "and " should be omitted.

Page 113, line 26, read "to" before Kentucky.

Page 116, the quotation beginning in the 3rd line should read thus:  
"Brown, *representing* Kentucky as a Senator in the Virginia *Assembly*,  
*procured* from it the emphatic declaration of 26th [he meant the 29th]  
of November, 1786, already mentioned."

Page 135, line 17, "dispatches" should read "dispatch."

Page 193, the word "never" in the 7th line should read "*ever*."

Page 217, in 5th line of note, the text should read "Letter *to* Arthur  
Campbell."

Page 258, line 16, the text should read, "spoke at all *in* the Convention."

Page 267, in the 6th line, for "conceded" read "concealed."

Page 278, line 16, the text should read "*adding* paltry equivocation to  
sly treachery."

Page 297, line 12, read "*refers*" instead of "refer."

Page 302, line 16, the text should read "of a desire."

Page 304, last word in 4th line should be "*was*."

Page 306, line 1 in note, for "copied" read "made."

Page 324, line 3, for "*were*" read *was*.

Page 351, line 21, for "*ports*" read "*posts*."

Page 378, line 11, for "salvo" read *salve*.



















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